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Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment

Addendum

Observations on communications transmitted to Governments and replies received*

* The present report is circulated as received.

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Abbreviations

AL Allegation Letter

JAL Joint Allegation Letter

JOC Joint Other Communications

JUA Joint urgent appeal

OC Other Communications

UA Urgent appeal

Methodology

In cases where protection measures apply to one or more individuals, these are referred to as Mr. / Ms. X, Y, Z, etc. or, just as some specific locations are referred to as X, Y, Z, etc.

I. Introduction

1. The present document is submitted by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Juan E. Méndez, to the Human Rights Council, pursuant to its resolution 25/13.

2 In the present addendum, the Special Rapporteur provides observations, where considered appropriate, on communications sent to States between 1 December 2014 and 30 November 2015, as well as on responses received from States in relation to these communications until 31 January 2016. In some instances and where appropriate, observations are provided to older communications which received a late reply within the above-named date range, as well as communications with updated replies following the request of the Special Rapporteur (see additional observations). Communications sent and responses received during the reporting period are accessible electronically through hyperlinks.

3. The Special Rapporteur is grateful to all States, which have transmitted responses to communications sent. He considers response to his communications an important part of cooperation by States with his mandate. In this context, the Special Rapporteur recalls paragraph 2(a) of the Human Rights Council resolution 25/13 which urges States to "fully cooperate with and assist the Special Rapporteur in the performance of his or her task, to supply all necessary information requested by him or her and to fully and expeditiously respond to his or her urgent appeals, and urges those Governments that have not yet responded to communications transmitted to them by the Special Rapporteur to answer without further delay."

4. The communications and the relevant replies can also be accessed via the encorporated links or in the communications reports of Special Procedures A/HRC/29/50 (communications sent, 1 December 2014 to 28 February 2015; replies received, 1 February to 30 April 2015), A/HRC/30/27 (communications sent, 1 March to 31 May 2015; replies received, 1 May to 31 July 2015) and A/HRC/31/79 (communications sent, 1 June to 30 November 2015; replies received, 1 August 2014 to 31 January 2016).

5. The Special Rapporteur on torture has made follow-up one of his priorities during his six year term. The Special Rapporteur has initiated a study to better understand the impact the communications procedure has on victims of torture and those subjected to cruel, inhuman or degrading treatment or punishment and how to further improve the effectiveness of this mechanism (including Observation reports) to prevent violations, protect victims from further violations and encouraging timely and substantive responses from the State concerned to ensure accountability.

6. The Special Rapporteur has received input from the Secretariat of the Special Procedures Branch and the Registry of the Office of the High Commissioner for Human Rights (OHCHR). Further, in September 2015, the Special Rapporteur sent a letter and questionnaire to non-government organizations at the international, regional and national level, who had submitted information over the past two years which formed the basis of a communication that was sent and subsequently reflected in the Special Rapporteur's 2014 and 2015 Observations Reports, presented to the Human Rights Council, A/HRC/25/60/Add.2 and A /HRC/28/68/Add.1 respectively. The Special Rapporteur extends his appreciation to the non-government organizations who responded with detailed information about the communication process and follow up information on individual cases and what, if any, action taken by the State to address any violation. The information gathered is being verified and analysed. The results will also be submitted and considered in the systemic review of the communications procedure being undertaken by Special Procedures mandate holders as reported in the Annual Report of Special Procedures (A/HRC/31/39 paras. 11 and 52). The Special Rapporteur hopes that the conclusions and

recommendations from this study could help identify ways to improve follow-up on cases, have a greater impact for the victim, increase the effectiveness of communications and observations and identify practices that may also be of assistance to the working methods of Special Procedures more generally.

II. Observations by the Special Rapporteur

Argentina

AL 01/03/2013 Case No ARG 2/2013 State Reply: 29/05/2013, 29/05/2013, 29/05/2013, 29/05/2013, 10/06/2013, 10/06/2013, 26/06/2013, 26/06/2013, 26/06/2013, 26/06/2013,26/06/2013, 26/06/2013, 26/06/2013, 26/06/2013, 26/06/2013, 26/06/2013, 19/08/2014, 11/03/2015 **Alegados actos de tortura y consecuente asesinato del Señor Damián Alejandro Sepúlveda cometido por agentes oficiales de una comisaría de General Madariaga, en la Provincia de Buenos Aires**

7. El Relator Especial agradece al Gobierno de Argentina sus respuestas a la comunicación conjunta con otros procedimientos especiales, de fecha 1 de marzo de 2013 la cual versaba sobre los alegatos de tortura y consecuentemente asesinato del Sr. Damian Sepúlveda mientras se encontraba detenido en la comisaría de General Madariaga, en la Provincia de Buenos Aires. El Relator Especial aprecia el esfuerzo del Gobierno en responder detalladamente a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial, así como todos los esfuerzos realizados para esclarecer los hechos sucedidos, en especial la apertura de la Investigación Penal Preparatoria Nro. 03-03-322-12, y la decisión de practicar una nueva autopsia, la cual fue realizada el día 8 de febrero de 2013 para determinar las verdaderas causas de la muerte del Señor Damián Alejandro Sepúlveda. Posteriormente, en cumplimiento de su deber de enjuiciar y sancionar a los responsables, el gobierno provincial procedió a la desafectación del servicio de las personas que tenían bajo su responsabilidad el cuidado y control de los detenidos, en especial del Sr. Damián Sepúlveda. Aunque las medidas disciplinarias como la mencionada son importantes, la obligación internacional del Estado en relación con un grave acto de tortura seguido de muerte es investigar, procesar y sancionar penalmente a los responsables. El Relator solicita al Gobierno muy respetuosamente que lo tenga informado sobre el curso de las actuaciones penales respectivas.

8. En este contexto, el Relator Especial en contra de la Tortura quisiera recordar al Gobierno de Argentina el párrafo 7 (e) de la Resolución 16/23 del Consejo de Derechos Humanos el cual insta a los Estados a que, "velen por que las víctimas de la tortura o de otros tratos o penas crueles, inhumanos o degradantes obtengan reparación y reciban una indemnización justa y adecuada [...]". Además hacemos un llamado al Estado a tomar las medidas necesarias para que estos hechos no se repitan.

Armenia

JAL 03/07/2015 Case No. ARM 1/2015 State Reply: 31/08/2015 and 06/10/2015 **Allegations concerning the excessive use of force by the police to disperse a peaceful demonstration in Yerevan, and the subsequent arrest and detention of demonstrators, journalists, and human rights monitors.**

9. The Special Rapporteur thanks the Government of Armenia for its reply, dated 31 August 2015, to the present communication.

10. The Special Rapporteur welcomes the information provided by the Government regarding the initiation of criminal investigations into victims' complaints by the Special Investigation Service, which are ongoing, and regarding internal investigations by the police department, which have led to disciplinary sanctions being applied to 12 officers who have been suspended pending the completion of the criminal investigations. The Special Rapporteur however finds that the Government, in its reply, does not sufficiently address the allegations of the use of physical violence against demonstrators, including claims that 22 individuals had to receive medical treatment, including one suffering from serious head injuries.

11. The Special Rapporteur welcomes the information that persons' claims for material damage have been satisfied by the Police, and calls on the Government to further ensure that full redress to the victims is provided, and to take adequate steps to prevent the recurrence of such acts and protect the physical and psychological integrity of the peaceful demonstrators at all times.

12. The Special Rapporteurs also recalls the Human Rights Council resolution 21/12 on safety of journalists (A/HRC/RES/21/12), which "condemns in the strongest terms all attacks and violence against journalists" and "calls upon States to ensure accountability through the conduct of impartial, speedy and effective investigations into such acts falling within their jurisdiction, and to bring to justice those responsible and to ensure that victims have access to appropriate remedies."

13. The Special Rapporteur strongly urges the Government of Armenia to prevent the excessive use of force and acts of ill-treatment against peaceful protestors, and abolish the provision of Art. 31 of the RA law on Police, regarding the use by the police of water cannons on peaceful protestors.

14. The Special Rapporteur calls on Armenia to comply with its obligation, under international customary law, to complete a timely and independent investigation, prosecution and punishment all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT). The Rapporteur expects to be kept fully informed of the outcome of the investigation and proceedings in this case.

Australia

(a) JUA 08/07/2014 Case No. AUS 2/2014 State Reply: 10/07/2014 and 05/05/2015 **Allegations concerning the situation of two groups of Sri Lankan asylum seekers and migrants (203 in total), including a significant number of Tamils, and their incommunicado detention and imminent deportation to Sri Lanka by the Australian Government, in contravention of Australia's non-refoulement obligations.**

15. The Special Rapporteur thanks the Government of Australia for its replies, dated 10 July 2014 and 5 May 2015, to the present communication.

16. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations and questions raised in the initial communication.

17. He takes note with concern of the information provided by the Government, that a group of 157 persons has been transferred to Nauru and a group of 41 persons transferred to Sri Lankan authorities on 6 July 2014. The Rapporteur is also concerned that the asylum seekers and the migrants were held by the Australian authorities without providing information on their whereabouts and conditions prior to their deportation.

18. The Rapporteur also takes note of the fact that the High Court of Australia handed down a decision on the case of one of the passengers on 28 January 2015.

19. Notwithstanding, the Rapporteur concludes that the Government of Australia, by deporting the passengers in both of the groups, without giving them an opportunity to make a proper claim for protection (with possibly one exception), to places where they may face persecution, torture or other cruel, inhuman or degrading treatment or punishment, has violated its obligation under article 3 of the Convention against torture (CAT).

(b) JUA 27/03/2015 Case No. AUS 3/2015 State reply: 27/11/2015 **Allegation concerning severe detention conditions, including solitary confinement and inadequate medical care, of Mr. X, charged with attempted homicide and found not guilty due to mental impairment at the time of the offense.**

20. The Special Rapporteur thanks the Government of Australia for its reply, dated 27 November 2015, to the present communication. He regrets that the Government did not receive the communication in time and will endeavor to find out the reasons for the delay. The Rapporteur acknowledges the information provided in November 2015 by the Government on the treatment received by Mr. X throughout his detention and his transfer to Adelaide Remand Centre. In particular, the detailed information about various measures adopted vis-à-vis Mr. X over the last several years, the reasons behind them and the safeguards adopted in each case, contribute effectively to an understanding of the allegations.

21. In this context he recalls Rule 45 of the United Nations Standard Minimum Rules for the Treatment of Prisoners (as amended on Nov. 5, 2015 by the General Assembly and readopted as the "Mandela Rules"), which provides that "[t]he imposition of solitary confinement should be prohibited in the case of prisoners with mental or physical disabilities when their conditions would be exacerbated by such measures." The Rapporteur would like to draw the Government's attention to his interim report to the General Assembly of 5 August 2011 (A/66/268), where he defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of solitary confinement of any duration against persons who suffer from mental or psycho-social disabilities may never constitute a legitimate instrument of the State.

22. He urges the Government to ensure that Mr. X is housed in a facility where he can have meaningful human contact and receive adequate and effective psychiatric treatment. He also respectfully requests to be kept informed of future developments in the case of Mr. X.

(c) JAL 01/06/2015 Case No. AUS 5/2015 State Reply: 03/08/2015 **Allegations that Australian authorities violated the principle of non-refoulement in returning a group of 46 Vietnamese asylum seekers to Vietnam without allowing for adequate procedures to determine their claim to refugee status, thus allowing for a risk of possible torture or ill-treatment upon return to Vietnam.**

23. The Special Rapporteur thanks the Government of Australia for its reply, dated 3 August 2015, to the present communication. He takes note of the information provided by the Government that the 46 Vietnamese asylum seekers received on-water interviews; that the State found the asylum seekers did not engage the state's non-refoulement obligations; that the government of Australia obtained assurances from the Vietnamese government concerning the treatment the asylum seekers would receive on return to Vietnam; that Australian officials were present upon the asylum seekers' arrival in Vietnam; and that the Vietnamese government subsequently informed Australia that all asylum seekers were safe

and well.

24. However, the Special Rapporteur finds that the Government, in its reply, did not sufficiently address the concerns raised about the "enhanced screening procedure" for unauthorized maritime arrivals, and measures taken to ensure that all asylum seekers are afforded a fair opportunity to state a claim for refugee status in compliance with the principles of non-refoulement. In particular, no information has been provided as to whether the asylum seekers were asked specific questions during their screening interview to determine whether they risked torture or cruel and unusual treatment, in addition to being asked about more general risk of persecution. Concerns raised about allegations that asylum seekers are not advised of their right to seek asylum and CAT relief, that no access to legal representation is provided unless specifically requested, and that no appeal mechanism exists to remedy errors in decision making, were furthermore not addressed. This is of particular concern given that official information from the Parliament of Australia, updated on 2 March 2015, indicated that although between 70 and 100 per cent of asylum seekers arriving by boat in the past have been found to be refugees, all claims for protection have been refused.

25. The Special Rapporteur reminds the government that, as observed in his 2015 report to the General Assembly (A/70/303), obligations enshrined in the CAT also apply to State vessels patrolling or conducting border control operations on the high seas; non-refoulement under the Convention must be assessed independently of refugee status determinations (to ensure that the fundamental right to be free from torture or other ill-treatment is respected even in cases where non-refoulement under refugee law may not apply); the procurement of diplomatic assurances cannot be used by States to escape their absolute obligation to refrain from non-refoulement; and post-return monitoring mechanisms do little to mitigate the risk of torture (paras. 38-42).

26. The Special Rapporteur strongly urges the government of Australia to take measures to ensure that its "enhanced screening procedure" is brought fully in line with its non-refoulement obligations under international law.

(d) JAL 12/11/2015 Case No. AUS 6/2015 State Reply: 12/01/2016 and 15/01/2016 **Allegations concerning undue restrictions, harassment, and reprisals against asylum seekers defending their rights and the rights of other detained asylum seekers, from within the detention facilities; as well as against human rights defenders and journalists who are documenting and reporting on the conditions of detention and ill-treatment in detention centres in Nauru, which may amount to torture.**

27. The Special Rapporteur thanks the Government of Australia for its replies, dated 12 January 2016 and 15 January 2016, to the present communication.

28. The Rapporteur takes note of the information provided by the Government that the immigration detention facilities in Nauru and Papua New Guinea are under the sovereignty and control of the respective governments of those countries. Nevertheless, those governments hold immigrants in those centres for the sole purpose of implementing Australia's policies of interdiction in the high seas, discouragement of asylum seekers and processing of requests for asylum in Australia. For that reason, Australia bears responsibility for the treatment of immigrants and asylum seekers in those centres. In spite of the information supplied by the Government, its reply fails to provide information about the allegations of ill-treatment or about any investigation into the allegations.

29. In the Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under

certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156. Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

30. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and that the Government of Australia, by failing to protect the physical and psychological integrity of human rights defenders at immigration detention facilities under its control, including by failing to prevent ill-treatment, incommunicado detention in solitary confinement and restriction on the access to food, medical care, water and sanitation, has violated the rights of the human rights defenders to be free from torture and other forms of cruel, inhuman and degrading treatment, as provided by articles 2 and 16 of the CAT and has failed to comply with its obligation to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as provided by its obligations under the Convention against Torture.

(e) JUA 16/11/2015 Case No. AUS 7/2015 State Reply: 17/12/2015 **Allegation concerning the alleged sexual violence against Ms. Nazanin Bagheri and ill-treatment faced by her and her brother, Mr. Omid Bagheri Jebeli, in the context of their detention in the Australian Regional Processing Centre in Nauru and their interaction with the Nauru National Police force**.

31. The Special Rapporteur thanks the Government of Australia for its reply dated 12/17/2015 to the present communication.

32. In the response, the Government of Australia informed that Ms. Nazanin Bagheri and members of her family had received appropriate ongoing medical care. The Special Rapporteur welcomes that Ms. Nazanin Bagheri has been temporarily transferred to Australia for medical treatment and that she has been provided with telephone and internet services to effectively communicate with her family. The Special Rapporteur also welcomes information provided regarding the measures taken to prevent ill-treatment of asylum seekers; in particular, that service providers under contract with the Australian government receive training and that a strict code of conduct is in place.

33. The Special Rapporteur finds that the Government of Australia has complied with its obligations under Articles 2 and 16 of the Convention Against Torture (CAT).

Azerbaijan

(a) JUA 13/02/2015 Case No. AZE 1/2015 State Reply: None to date **Allegations concerning the arbitrary detention and ill-treatment of Ms. Leyla Yunus, a leading Azerbaijani human rights defender, who has been held in pre-trial custody since 30 July 2014**

34. The Special Rapporteur regrets that the Government of Azerbaijan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular the letter expressed grave concerns regarding the alleged arbitrary detention, detention conditions and ill-treatment of Ms. Yunus, which have caused her health to deteriorate and the lack of transparency in relation to documentation of torture, which risks contributing to its perpetuation.

35. In the absence of information to the contrary, the Rapporteur concludes that there is

substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of Azerbaijan, by failing to protect the physical and psychological integrity of Ms. Yunus violated her right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the Convention against Torture (CAT).

36. The Special Rapporteur reminds the State of Azerbaijan that the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to cruel, inhuman and degrading treatment.

(b) JAL 29/05/2015 Case No. AZE 2/2015 State Reply: 11/09/2015 **Allegations concerning the pre-trial detention, charges and sentencing of human rights defenders Mr. Intigam Aliyev, Mr. Emin Huseynov, Ms. Khadija Ismail, and Mr. Rasul Jafarov.**

37. The Special Rapporteur thanks the Government of the Azerbaijan for its reply, dated 11 September 2015, to the present communication. The Rapporteur takes note of the information provided that health care is being granted to Mr. Intigam Aliyev and that his current state of health is satisfactory.

38. The Special Rapporteur would like to remind the State of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), and draws the attention of the Government to the UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on 5 November 2015 and renamed the "Mandela Rules") and in particular Rule 27(1), which provides that all prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.

39. The Special Rapporteur reminds the State of Azerbaijan that the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. The Special Rapporteur also encourages the Government to continue its engagement with the mandate.

Bahamas

JAL 24/03/2015 Case No. BHS 1/2015 State Reply: None to date **Allegations concerning recent immigration reform in the Bahamas and the subsequent alleged detention and deportation of persons living in the Bahamas of Haitian origin.**

40. The Special Rapporteur regrets that the Government of Bahamas has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular, the letter expressed concern about the recent immigration reform in the Bahamas the implementation of which has had a discriminatory impact on people of Haitian origin and descent.

41. The Special Rapporteur reminds the State of the Bahamas of the general obligations regarding the treatment of prisoners while in detention facilities, in particular the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 (adopted by General Assembly resolution 43/173 of 9 December 1988) and UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on November 5, 2015 and renamed the "Mandela Rules"). Furthermore it is important to mention that the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment.

42. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of the Bahamas, by failing to provide adequate detention conditions and to end the practice of detention of children together with adults, violated their absolute right to be free from cruel, inhuman or degrading treatment.

Bahrain

(a) JUA 15/04/2015 Case No. BHR 2/2015 State reply: 18/05/2015 **Allegation concerning the arrest, detention, and torture of human rights defender Mr. Nabeel Rajab.**

43. The Special Rapporteur thanks the Government of Bahrain for its reply, dated 18 May 2015, to the present communication.

44. The Rapporteur takes note of the information provided by the Government about the allegation concerning the case against Mr. Rajab. However, the Rapporteur finds that the Government failed to submit any information regarding the allegations of torture and ill-treatment of Mr. Rajab and does therefore not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, and consequently fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

45. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus that the Government of Bahrain, by failing to protect the physical and psychological integrity of Mr. Rajab, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the Convention against Torture (CAT) to which Bahrain acceded on 6 March 1998.

46. It has come to the attention of the Special Rapporteur that after receiving a pardon from King Hamad, Mr. Rajab was released from prison on 13 July 2015. The Rapporteur welcomes the news of Mr. Rajab's release. The Special Rapporteur calls upon the government of Bahrain to conduct a fair, impartial and independent investigation into the allegations of torture and ill-treatment and to hold those responsible accountable.

(b) JUA 13/05/2015 Case No. BHR 3/2015 State reply: 13/07/2015 **Allegation of arbitrary arrests, charges, detention, torture, and sentencing of 39 minors, aged between 10 years old and 17 years old.**

47. The Special Rapporteur thanks the Government of Bahrain for its reply, dated 13 July 2015, to the present communication.

48. The Rapporteur takes note of the information provided by the Government concerning the charges and legal proceedings against 32 of the minors, and the lengthy terms of imprisonment for several of the minors discussed in the letter, ranging between seven and fifteen years imprisonment. The Special Rapporteur in particular welcomes the information provided by the Government regarding the procedures in places for allegations of torture or ill-treatment at arrest, interrogation or at any stage of the police procedures. In spite of the information supplied by the Government, its reply fails to inform the Rapporteur of the results of any inquiry into the alleged physical, verbal, and sexual abuse the minors have been subjected to while in detention. Similarly, the reply does not address the allegation that some of the minors have been held in solitary confinement.

49. The Rapporteur would like to draw the Government's attention to his interim report to the General Assembly of 5 August 2011 (A/66/268), in which the Rapporteur defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined

in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged or indefinite solitary confinement may never constitute a legitimate instrument of the State and it runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. In addition, solitary confinement even of short duration is absolutely prohibited when applied to children. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

50. The Rapporteur hence finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication and regrets that the Government did not respond to the questions raised in the initial communication regarding the alleged torture and ill-treatment of the minors.

51. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Bahrain, by failing to protect the physical and psychological integrity of the minors in question has violated the right of the 39 minors to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 2 and 16 of the Convention against Torture.

(c) JUA 20/11/2015 Case No. BHR 7/2015 State Reply: None to date **Allegations concerning the risk of imminent execution of Mr. Mohammed Ramadan and Mr. Husain Ali Moosa following trials that did not meet international standards of fair trial and due process.**

52. The Special Rapporteur regrets that the Government of Bahrain has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular this letter expressed grave concerns regarding the alleged imminent execution of Mr. Mohammed Ramadan and Mr. Husain Ali Moosa following trials that did not meet international standards of fair trial and due process.

53. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if the formation of this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

54. Regarding the use of solitary confinement in the case of Mr. Mohammed Ramadan, in the Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with

adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156. Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

55. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus that the Government of Bahrain, by seeking to execute the death penalty on Mr. Mohammed Ramadan and Mr. Husain Ali Moosa following trials that did not meet international standards of fair trial and due process, and by subjecting Mr. Mohammed Ramadan to prolonged solitary confinement, has violated their right to be free from torture or cruel, inhuman or degrading treatment.

56. The Special Rapporteur calls upon the State to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; (para. 79 A/67/279). He reminds the government of Bahrain of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).With regard to sentences imposing the death penalty, the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/67/279) calls upon retentionist States to rigorously observe the restrictions and conditions imposed by articles 1 and 16 of the CAT.

(d) JAL 25/11/2015 Case No. BHR 8/2015 State Reply: None to date **Allegations concerning detention conditions in Jaw Prison in Bahrain, among them inadequate or no access to medical care, as well as torture and ill-treatment suffered during and following the crackdown of a prison protest, and the absence of any investigation into these allegations.**

57. The Special Rapporteur regrets that the Government of Bahrain has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular this third communication related to the Jaw prison expressed grave concerns regarding the detention conditions in that facility. Earlier government replies did not sufficiently address the concerns, legal obligations, and questions raised in the initial communications.

58. Regarding the use of solitary confinement, in the Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156. Prolonged or indefinite solitary

confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

59. The Special Rapporteur reminds the State of Bahrain of the general obligations regarding the treatment of prisoners while in detention facilities, in particular the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment adopted by the General Assembly on 9 December 1988 (adopted by General Assembly resolution 43/173 of 9 December 1988) and UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on November 5, 2015 and renamed the "Mandela Rules"). Furthermore, it is important to mention that the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment.

60. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus that the Government of Bahrain, by failing to provide adequate detention conditions violated the absolute right of the detainees in the Jaw Prison to be free from cruel, inhuman or degrading treatment.

61. The Special Rapporteur urges the State to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture. The Special Rapporteur reminds the State of its obligation to conduct a fair and impartial investigation into the incidents and to prosecute and punish those responsible.

Bangladesh

JUA 20/11/2015 Case No. BGD 8/2015 State Reply: None to date **Allegations concerning imminent execution of Mr. Salauddin Quader Chowdhury and Mr. Ali Ahsan Mohammad Mujahid following trials that did not meet international standards of fair trial and due process.**

62. The Special Rapporteur regrets that the Government of Bangladesh has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

63. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74)..

64. It has come to the attention of the Special Rapporteur, that Mr. Chowdhury and Mr. Mujahid were executed on 22.11.2015 following their convictions for war crimes and genocide. The Rapporteur strongly condemns the executions and concludes that the Government of Bangladesh, in executing Mr. Chowdhury and Mr. Mujahid following a trial and appeal process that failed to meet international standards on fair trial and due process, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by article 7 of the International Covenant on Civil and Political Rights.

65. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

Brunei Darussalam

(a) JAL 25/09/2014 Case No. BRN 1/2014 State Reply: 13/11/2014 and 11/03/2015 **Allegations concerning an Order relating to laws in respect of shari'a crimes and any matter connected therewith, which is cited as the Syariah [shari'a] Penal Code Order, 2013 (SPC).**

66. The Special Rapporteur thanks the Government of Brunei for its replies, dated 13 November 2014 and 11 March 2015, to the present communication. The Rapporteur welcomes the Government's intention to sign the UN Convention Against Torture. In spite of the information supplied by the Government, its reply fails to inform the Rapporteur about the use of death penalty for offences that do not meet the threshold of the "most serious crimes" or for blasphemy, witchcraft, and apostasy; the use of corporal punishment such as amputation and public flogging and stoning as a method of execution. For purposes of the imposition of capital punishment in retentionist States, the notion of "most serious crimes" means offenses committed with intent to kill and that actually result in death.

67. The Special Rapporteur recalls the report presented to the 60th session of the General Assembly, in which his predecessor, with reference to the jurisprudence of UN treaty bodies, concluded that any form of corporal punishment is contrary to the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. He also noted that "States cannot invoke provisions of domestic law to justify the violation of their human rights obligations under international law, including the prohibition of corporal punishment," and called upon States to abolish all forms of judicial and administrative corporal punishment without delay (A/60/316, para. 28). The Rapporteur wishes to stress that corporal punishment of any sort including of children is always torture in violation of international law, even if judicially imposed.

68. Furthermore, in the 67th session of the General Assembly (A/67/279) the Special Rapporteur referred to the jurisprudence of regional human rights bodies and national judiciaries to conclude that there is no doubt that death by stoning constitutes torture and is, beyond dispute, a violation of the prohibition of cruel, inhuman and degrading treatment (para. 31).

69. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). 5. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; paragraph 79 of the Special Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268).

Burundi

JUA 13/11/2015 Case No. BDI 5/2015 State Reply: 07/01/2016 et 29/01/2016 **Allégations de torture de la part de représentants de l'Etat infligée à des membres de l'opposition au Gouvernement, de présumés manifestants et présumés opposants à la réélection du Président Pierre Nkurunziza, ainsi que des membres de la société civile.**

70. Le Rapporteur spécial remercie le Gouvernement pour les informations extensives fournies en réponse à sa lettre du 13 novembre 2015 concernant les allégations susmentionnées, ainsi que pour son invitation d'effectuer une visite dans le pays.

71. Le Rapporteur spécial prend note de l'information selon laquelle les allégations de torture seront erronées et que la police burundaise n'aurait jamais fait recours à des telles méthodes. Le Rapporteur se félicite de l'initiative du Gouvernement concernant l'organisation régulière d'ateliers de sensibilisation et de formation en matière de lutte contre la torture à l'intention des policiers, ainsi que de la fermeté du Gouvernement dans la lutte contre la violation du droit de ne pas être soumis à la torture ou autres traitements inhumains.

72. Le Rapporteur prend note du fait que le discours du Président du Sénat incitant les forces de l'ordre à employer « utiliser toutes les techniques et tous les moyens mis à leur dispositions » afin de mener à bien certaines missions puisse avoir été mal interprété par ses opposants comme une forme d'incitation à la violence. Quant aux enquêtes sur les policiers ayant commis des bavures en interventions lors de l'insurrection, le Rapporteur demande au gouvernement du Burundi de lui fournir des informations additionnelles et actualisées. Le Rapporteur invite le gouvernement à décourager fermement l'emploi de la torture par les forces de l'ordre et de poursuivre les auteurs de telles méthodes en conformité avec la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

73. Le Rapporteur prend en outre note de l'information fourni par le gouvernment selon laquelle les corps trouvés avec des marques de tortures puissent être le fait des agissements des opposants au régime et non seulement des forces de l'ordre, et de l'ouverture du dossier traitant des actes de torture contre le journaliste Esdras Ndikumana. Le Rapporteur rappelle que la mort de tout individu lors de sa detention par l'Etat, meme si temporaire, soulève une presomption de responsabilité de l'Etat. Pour lui, les explications fournis par le gouvernment ne s'avèrent pas suffisant selon le principe d'une obligation d'une enquête approfondie, rapide et impartiale sur tous les cas présumés d'exécutions extrajudiciaires, arbitraires et sommaires, y compris les cas où les plaintes déposées par des parents ou d'autres rapports fiables suggèrent un décès non naturel dans les circonstances ci-dessus. Le Rapporteur enjoint le gouvernement à lui fournir des informations actualisées sur les différentes enquêtes en cours.

Cameroon

JUA 08/01/2014 Case No. CMR 2/2014 State Reply: None to date **Allégations d'éventuelles atteintes aux normes et standards internationaux en matière de protection des droits de l'homme pouvant être causées par certaines dispositions de la loi 962/PJL/AN « portant répression des actes de terrorisme ».**

74. Le Rapporteur spécial regrette que le gouvernement du Cameroun n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13.

75. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus, et que le Cameroun, en adoptant la loi 962/PJL/AN « portant répression des actes de terrorisme » a failli à se conformer à l'interdiction absolue et non-dérogeable de tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

Central African Republic

JAL 02/09/2015 Case No. CAF 1/2015 State Reply: None to date **Allégations d'actes de torture perpétrés par des soldats de la Mission internationale de soutien à la Centrafrique (MISCA), contre des éléments de la milice anti-balaka en décembre 2013 et en mars 2014.**

76. Le Rapporteur spécial regrette que le gouvernement de la République Centrafricaine n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13.

77. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus. En échouant à investiguer la soumission à la torture de miliciens anti-balaka par des soldats originaires de la République congolaise en décembre 2013 à Bossangoa et à Boali en mars 2014, ainsi que la disparition de sept autres individus arrêtés pour leur appartenance présumée à la milice anti-balaka, la République Centrafricaine a failli à se conformer à l'interdiction absolue de tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

Chad, Republic of

JAL 04/09/2015 Case No. TCD 1/2015 State Reply : None to date **Allégations d'exécutions de dix personnes le 29 août 2015 à l'issue d'un procès expéditif non conforme aux standards internationaux en matière de protection des droits de l'homme.**

78. Le Rapporteur spécial regrette que le gouvernement du Tchad n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13.

79. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus. En échouant à offrir un procès équitable en vertu du droit international, un accès à l'assistance judiciaire, des recours disponibles et effectifs et le droit au pardon aux personnes exécutées suite au rétablissement de la peine de mort dans la loi anti-terroriste du 30 juillet 2015, le gouvernement du Tchad a failli à se conformer à l'interdiction absolue de tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

China

(a) JAL 29/05/2015 Case No. CHN 4/2015 State Reply: None to date **Allegations concerning the detention and conviction of former journalist Ms. Gao Yu.**

80. The Special Rapporteur regrets that the Government of China has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

81. The Special Rapporteur draws the attention of the State to the Standard Minimum Rules for the Treatment of Prisoners (reviewed on 5 November 2015 and renamed the "Mandela Rules") and in particular that provides that, all prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.

82. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, Ms. Gao Yu has been released on medical parole and will serve her sentence outside prison because of medical conditions. The Special Rapporteur welcomes the decision.

83. Regarding the allegations of a coerced confession, in the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of China, by obtaining a confession under coercion has violated the right of Ms. Gao Yu to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 2 and 16 of the Convention against Torture.

(b) JUA 07/08/2015 Case No. CHN 8/2015 State Reply: 02/09/2015 **Allegations concerning the arbitrary detention and mistreatment of human rights defender Mr. Yang Maodong.**

84. The Special Rapporteur thanks the Government of China for its reply, dated 2 September 2015, to the present communication.

85. He regrets that, as of the drafting of this report, no official translation is available to the Government's reply. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply.

(c) JUA 29/10/2015 Case No. CHN 10/2015 State Reply: 06/01/2016 **Allegations concerning the arbitrary detention of and targeting of human rights defender Mr. Chen Yunfei, and the residential surveillance of human rights lawyer Mr. Sui Muqing.**

86. The Special Rapporteur thanks the Government of China for its reply, dated 6 January 2016, to the present communication.

87. He regrets that, as of the drafting of this report, no official translation is available to the Government's reply. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply.

(d) JAL 26/11/2015 Case No. CHN 11/2015 State Reply: 22/01/2016 **Allegations concerning alleged violations of the human rights of members of Christian Catholic and Protestant churches by the Zhejiang provincial Government, and the ill-treatment of Pastor Huang Yizi while in custody between March 2015 and August 2015 and his incommunicado detention since September 2015.**

88. The Special Rapporteur thanks the Government of China for its reply, dated 22 January 2016, to the present communication.

89. He regrets that, as of the drafting of this report, no official translation is available to the Government's reply. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply.

(e) JUA 3/11/2015 Case No. CHN 12/2015 State Reply: None to date **Allegations concerning the enforced disappearance of two human rights defenders, Mr. Tang Zhishun and**

Xing Qingxian; and the house arrest of the 16 year old son of a detained human rights defender.

90. The Special Rapporteur regrets that the Government of China has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular, the letter expressed grave concerns regarding the enforced disappearance of two human rights defenders, Mr. Tang Zhishun and Xing Qingxian; and the house arrest of the son XXXX of a detained human rights defender.

91. The Special Rapporteur would like to remind the State that prolonged incommunicado detention can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment as stated in the paragraph 27 of General Assembly Resolution 68/156. He urges the Government of China to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

92. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of China, by failing to protect the physical and psychological integrity of Mr. Tang Zhishun and Xing Qingxian, including by subjecting them to enforced disappearance and prolonged incommunicado detention, has violated their right to be free from torture and cruel, inhuman or degrading treatment as codified in articles 1 and 16 of the CAT.

Congo (Republic of the)

JAL 02/09/2015 Case No. COG 1/2015 State Reply: None to date **Allégations d'actes de torture perpétrés par des soldats de la Mission internationale de soutien à la Centrafrique (MISCA), contre des éléments de la milice anti-balaka en décembre 2013 et en mars 2014.**

93. Le Rapporteur spécial regrette que le gouvernement du Congo n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13.

94. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus. En échouant à investiguer la soumission à la torture de miliciens anti-balaka par des soldats originaires de la République congolaise en décembre 2013 à Bossangoa et à Boali en mars 2014, ainsi que la disparition de sept autres individus arrêtés pour leur appartenance présumée à la milicee anti-balaka, le Congo a failli à se conformer à l'interdiction absolue de tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

Cuba

JUA 27/08/2015 Case No. CUB 2/2015 State Reply: 22/10/2015 **Alegaciones de detención arbitraria, malos tratos y tortura del Sr. Emmanuel Abreu Sánchez, quien se encuentra en detención.**

95. El Relator Especial agradece al Gobierno de Cuba por su respuesta de fecha 22 de octubre de 2015 a la comunicación conjunta con otros procedimientos,, la cual versaba

sobre denuncia de malos tratos y tortura contra el Sr. Abreu Sánchez durante su detención, incluyendo la falta de tratamiento médico.

96. Sin embrago, el Relator especial lamenta la falta de información acerca de las alegaciones de malos tratos y de tortura. El Relator Especial, por lo tanto, considera que la respuesta del gobierno no aborda suficientemente las inquietudes, obligaciones y preguntas de la comunicación inicial y por ello, considera que existe una falta de cooperación con el mandato conferido por el Consejo de Derechos Humanos en su resolución 25/13.

97. En particular, el Relator lamenta que no se haga referencia a la iniciación de acciones judiciales o investigaciones correspondientes sobre los actos de tortura, incluyendo vejaciones, palizas y el encadenamiento de manos y pies en posición de crucificado, que se habrían realizado durante la detención del Sr. Abreu Sánchez en el Combinado de Guantánamo y en la prisión Combinado del Este. Asimismo, el Relator considera que la respuesta recibida carece de información suficiente al respecto de las condiciones de detención, en particular sobre el derecho a comunicarse con un abogado y sus familiares y la falta de tratamiento médico especializado anterior a su traslado a la Sala de Penados del Hospital Nacional Enrique Cabreras de La Habana.

98. El Relator Especial quisiera recordarle al Estado la prohibición absoluta e inderogable de la tortura y de los malos tratos establecida en los artículos 1, 2 y 16 de la Convención contra la Tortura (CAT). El Estado se encuentra obligado a realizar un juicio justo e imparcial para investigar los acontecimientos y enjuiciar y sancionar a los responsables, de conformidad con el los artículos 7 y 12 de la CAT.

99. Así pues, el Relator Especial urge al Gobierno de Cuba a comenzar una investigación y tomar medidas necesarias para garantizar la integridad física y psicológica del Sr. Abreu Sánchez.

Democratic Republic of the Congo

(a) JAL 08/06/2015 Case No. COD 2/2015 State Reply: None to date **Allégations concernant l'arrestation arbitraire de M. Emile Bisimwa Muhirhi, allégations relatives à des tortures, mauvais traitement et à l'absence de soins médicaux adéquats en détention.**

100. Le Rapporteur spécial regrette que le gouvernement de la République Démocratique du Congo n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13.

101. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus, et donc, que le gouvernement de la République Démocratique du Congo, en arrêtant arbitrairement M. Bisimwa , en le torturant et en le forçant à confesser un délit de vol, ainsi qu'en lui fessant subir de mauvais traitements et de mauvaises conditions de détention, incluant l'insuffisance de nourriture, de mauvaises conditions d'hygiène et l'absence d'accès aux soins médicaux, a violé le droit de M. Bisimwa de ne pas être soumis à la torture et autres peines ou traitements cruels, inhumains ou dégradants, comme prévu dans les articles 2 et 16 de la CCT. De plus, en échouant à fournir toute information sur les enquêtes concernant les allégations de torture, arrestation et détention arbitraire, le gouvernement de la République Démocratique du Congo a aussi violé les articles 7 et 12 de la CCT.

102. Le Rapporteur spécial a également porté son attention au délai excessif de l'examen de la plainte pénale portée par M. Bisimwa par les autorités compétentes. Dans ce sens, le gouvernement de la République Démocratique du Congo aurait violé l'article 13 de la CCT.

(b) JUA 16/06/2015 Case No. COD 3/2015 State Reply: None to date **Allégations relatives à la détention arbitraire, mauvais traitements, détention en situation incomucado, et**

des mauvaises conditions de détention du défenseur des droits de l'homme M. Fred Bauma Winga et des autres jeunes activistes pacifiques.

103. Le Rapporteur spécial regrette, au moment de la finalisation du présent rapport, l'absence de réponse de la part du gouvernement de la République Démocratique du Congo à la communication envoyée le 16 juin 2015 concernant les allégations de détention arbitraire et incomunicado de nombreux activistes, du jugement de culpabilité sans preuves de M. Fred Bauma Winga, et des actes des mauvais traitements contre celui et contre des autres activistes détenus. A cet égard, le gouvernement a échoué à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13.

104. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus, et donc, que le gouvernement de la République Démocratique du Congo, en arrêtant arbitrairement M. Fred Bauma Winga, en le détenu dans une situation incomunicado, en le torturant, ainsi qu'en lui fessant subir de mauvais traitements et de mauvaises conditions de détention, incluant l'insuffisance de nourriture, de mauvaises conditions d'hygiène et l'absence d'accès aux soins médicaux, a violé le droit de M. Fred Bauma Winga et des autres activistes à ne pas être soumis à la torture et à d'autres peines ou traitements cruels, inhumains ou dégradants, comme prévu dans les articles 2 et 16 de la CCT.

105. Le Rapporteur spécial souhaiterait aussi attirer l'attention du gouvernement au paragraphe 7c de la Résolution 8/8 du Conseil des droits de L'homme dans laquelle le Conseil "[r]appelle à tous les Etats qu'une période prolongée de mise au secret ou de détention dans des lieus secrets peut faciliter la pratique de la torture et d'autre peines ou traitements cruels, inhumains ou dégradants et peut en soi constituer un tel traitement, et demande instamment à tous les Etats de respecter les garanties concernant la liberté, la sécurité et la dignité de la personne."

106. Le Rapporteur spécial demande au gouvernement à enquêter tous les cas de torture, à poursuivre et punir les responsables, en fournissant une réparation intégrale pour les victimes, y compris une indemnisation équitable et adéquate, et d'empêcher la réitération de telles pratiques.

Dominican Republic

JUA 11/12/2014 Case No. DOM 2/2014 State Reply: None to date **Alegaciones relativas al proyecto de reforma integral del Código Penal de la República Dominicana que mantiene la penalización total del aborto.**

107. El Relator Especial lamenta que el Gobierno de Republica Dominicana no haya respondido a la comunicación de fecha 11 de diciembre de 2014 y por ello, considera que existe una falta de cooperación con el mandato conferido por el Consejo de Derechos Humanos en su resolución 25/13.

108. En particular esta comunicación hacía referencia a la preocupación por la persistencia de la total prohibición del aborto, que afecta particularmente a mujeres de escasos recursos económicos y con un nivel menor de educación, sin consideración alguna a situaciones excepcionales.

109. El Relator Especial quisiera recordarle al Estado su informe temático Numero A/HRC/22/53 donde exhorta a todos los Estados a que velen por que las mujeres tengan acceso a la atención médica de emergencia, incluidos los cuidados posteriores al aborto, sin temor a sanciones penales, represalias o trato humillante.

110. Ante la ausencia de información que contradiga lo argumentado, el Relator Especial concluye que hay fundamentos suficientes en los argumentos presentados, disponibles en el enlace señalado anteriormente, para señalar que el Gobierno de la República Dominicana ha violado sus obligaciones de proteger la integridad física y psicológica de las mujeres y adolescentes embarazadas.

Egypt

(a) JUA 23/12/2014 Case No. EGY 14/2014 State reply: 27/01/2015 and 03/02/2015 **Allegation concerning the imposition of the death penalty on 188 defendants, for charges related to an attack on the Kerdasa police station in Giza.**

111. The Special Rapporteur thanks the Government of Egypt for its reply, dated 3 February 2015, to the present communication.

112. The Rapporteur takes note of the information provided by the Government regarding the circumstances in which the death penalty is applied in Egypt, the Government's account of the attack on the Kerdasa police station, and the allegation of the arrest and torture of Ms. X and her son, as well as the detention and release of her other son.

113. Concerning the allegations of torture and ill-treatment, the Rapporteur calls on the Government of Egypt to undertake a prompt, independent, and effective investigation into the allegations of torture of Ms. X and her son leading to the prosecution and punishment of the perpetrators, provide full redress to the victims and their family members, and undertake effective measures to prevent the recurrence of these acts. The Rapporteur wishes to be kept fully informed of the outcome of the investigation and proceedings.

114. It has come to the attention of the Rapporteur that in the cases referred to the Grand Mufti of the Republic for an opinion on the matter, in line with article 381 of the Egyptian criminal code, that authority affirmed the death sentence of 183 of the 188 defendants. In its reply, the Government stated that the court's decision to refer the case to the Grand Mufti in no way signified that the death sentence would be pronounced. However, the Grand Mufti's decision to uphold the sentences was rendered on 2 February, the same day the requests for an opinion were made. The Rapporteur takes note of the fact that the decisions are subject to appeal and strongly urges the Government of Egypt to protect the right of the 183 prisoners to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 2 and 16 of the CAT.

115. As observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, as it causes severe mental and physical pain or suffering and thus constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

116. The Rapporteur reminds the Government of Egypt of the absolute and non-derogable prohibition of torture and other ill-treatment and that article 15 of the CAT prohibits the use of any statement made as the result of torture as evidence in any criminal proceedings. Additionally, the Rapporteur strongly urges the Government of Egypt to refrain from executing the individuals sentenced to death, as well as to refrain from, and abolish, the practice of executions.

(b) JUA 08/01/2015 Case No. EGY 1/2015 State reply: 20/02/2015 **Allegation concerning the arbitrary arrest, detention, torture, and public humiliation and stigmatisation of 26 men tried on charges related to their alleged sexual orientation.**

117. The Special Rapporteur thanks the Government of Egypt for its reply, dated 20 February 2015, to the present communication.

118. The Rapporteur takes note of the information provided by the Government that all 26 individuals detained and tried were twice acquitted of the charges against them. In spite of the information supplied by the Government, its reply denies the allegation of ill-treatment of these detainees but fails provide any details as to how the investigation was conducted. Similarly, the reply does not address the larger question of whether persons in Egypt are treated in humiliating manner when detained and investigated about their real or alleged homosexuality, or the forced anal examinations these individuals were allegedly subjected to at the time of their arrest. In this context, the Rapporteur would like to remind the Government of the absolute and non-derogable prohibition of torture and other ill-treatment, whether physical or mental, as codified in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Egypt signed on 25 June 1986.

119. The Rapporteur calls on the Government of Egypt to undertake a prompt, independent, and effective investigation into the allegations of torture and cruel, inhuman or degrading treatment of the 26 men leading to the prosecution and punishment of the perpetrators, provide full redress to the victims and their family members, and undertake effective measures to prevent the recurrence of these acts. The Rapporteur expects to be kept fully informed of the outcome of the investigation and proceedings.

120. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available in the link above, and is therefore of the view that the Government in Egypt, by failing to protect the physical and psychological integrity of the 26 men arrested and tried on charges related to their alleged sexual orientation, has violated their rights to be free from torture or cruel, inhuman or degrading treatment as provided by article 1 of the CAT.

(c) JUA 10/04/2015 Case No. EGY 5/2015 State reply: 07/05/2015 **Allegation concerning the imposition of the death penalty for six individuals, including Mr. Mohamed Ali Afifi Badawi, Mr. Mohammad Bakri Mohammad Haroun, Mr. Hani Mustafa Amin Amer, Mr. Islam Sayed Ahmed Ibrahim, Mr. Khaled Farag Mohammed Ali, and Mr. X.**

121. The Special Rapporteur thanks the Government of Egypt for its reply, dated 7 May 2015, to the present communication.

122. The Rapporteur however finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, in particular with regards to the allegations of torture and ill-treatment of the named individuals, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

123. The Rapporteur would like to draw the Government's attention to his 2012 report to the General Assembly (A/67/279), which states that there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty when imposed or executed under circumstances that violate such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special

Rapporteur calls upon all States to reconsider whether the use of the death penalty per se disrespects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

124. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Egypt by imposing death sentences on Mr. Mohamed Ali Afifi Badawi, Mr. Mohammad Bakri Mohammad Haroun, Mr. Hani Mustafa Amin Amer, Mr. Islam Sayed Ahmed Ibrahim, Mr. Khaled Farag Mohammed Ali, Mr. X, and by failing to protect their physical and psychological integrity has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by article 7 of the ICCPR and articles 2 and 16 of the Convention against Torture.

(d) JUA 1/06/2015 Case No. EGY 6/2015 State Reply: 02/07/2015 and 16/08/2015 **Allegations concerning the arbitrary arrest, detention, torture, and ill-treatment of Mr. X and Mr. Y, aged 14 and 16, by officers, as well as denial of access to medical services whilst in detention.**

125. The Special Rapporteur thanks the Government of Egypt for its replies, dated 2 July 2015 and 2 August 2015, to the present communication.

126. The Special Rapporteur takes note of the information provided by the Government concerning the arrests and detentions of Mr. **X** and Mr. **Y**. However, the Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication. In particular, the reply fails to substantiate the claim that there is no evidence that Mr. **X** and Mr. **Y** have been subjected to torture or other ill-treatment, and fails to indicate what, if any, investigations have been undertaken with regards to the allegations.

127. In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Egypt, by arbitrarily arresting Mr. **X** and Mr. **Y** and failing to protect their physical and psychological integrity, has violated their rights to be free from torture, cruel, inhuman or degrading treatment as provided by articles 1, 2, 12, 15 and 16 of the CAT.

128. The State is urged to conduct a fair and impartial investigation into the incidents, to prosecute and punish those responsible, and to provide adequate redress to the victims.

(e) JUA 29/05/2015 Case No. EGY 7/2015 State reply: 30/07/2015 **Allegation concerning the imposition of the death sentence against former Egyptian President, Mr. Mohamed Morsi Eissa El Ayyat, and 105 other individuals.**

129. The Special Rapporteur thanks the Government of Egypt for its reply, dated 30 July 2015, to the present communication.

130. He regrets that, as of the drafting of this report, no official translation is available to the Government's reply. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply.

(f) JOL 21/07/2015 Case No. EGY 11/2015 State Reply: 05/08/2015 **Allegations concerning the draft amendments to the Egyptian anti-terrorism law, which would be incompatible with international human rights obligations, including the prohibition of torture.**

131. The Special Rapporteur thanks the Government of Egypt for its reply, dated 5 August 2015, to the present communication.

132. The Rapporteur takes note of the information provided by the Government on the draft amendments to the Egyptian anti-terrorism law, several provisions of which allegedly have the potential to severely undermine the most fundamental human rights and risk facilitating practices of torture and other cruel, inhuman or degrading treatment or punishment. The Rapporteur also acknowledges the Government's explanation that the bill is still in the drafting stage and subject to further review.

133. The Special Rapporteur wishes to remind the Government of Egypt of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, codified *inter alia* in articles 1, 2 and 16 of the Convention against Torture (CAT) and Article 7 of the International Covenant on Civil and Political Rights (ICCPR). The Rapporteur also recalls that, in conformity with its obligations under the CAT, the Government of Egypt is duty-bound to prevent torture and other cruel, inhuman or degrading treatment or punishment.

134. In this regard, the Special Rapporteur recalls resolution 2003/68 of the Commission on Human Rights in which it "*[e]ncourages* States, while countering terrorism, to take into account relevant United Nations resolutions and decisions on human rights, and encourages them to consider the recommendations of the special procedures and mechanisms of the Commission on Human Rights and the relevant comments and views of United Nations human rights treaty bodies" (para. 6).

135. The Rapporteur strongly urges the Government of Egypt to take all the steps necessary to ensure that any amendment made to its anti-terrorism law fully comply with international standards regarding the prohibition and prevention of torture and other ill-treatment.

(g) JUA 14/08/2015 Case No. EGY 12/2015 State Reply: 11/12/2015 **Allegations concerning Mr. Ibrahim Halawa, an Irish citizen currently being held in detention in Cairo on terrorism-related charges.**

136. The Special Rapporteur thanks the Government of Egypt for its reply, dated 11 December 2015, to the present communication.

137. He regrets that, as of the drafting of this report, no official translation is available to the Government's reply. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply.

(h) JUA 24/09/2015 Case No. EGY 13/2015 State reply: 21/12/2015 **Allegations concerning the arbitrary arrest, incommunicado detention, torture, and ill-treatment during detention, and of a confession obtained under torture, of Mr. Hosni Talaat Mohammed Al Nagar (طلعت محمد حسني النجار), Egyptian citizen.**

138. The Special Rapporteur thanks the Government of Egypt for its reply, dated 21 December 2015, to the present communication.

139. He regrets that, as of the drafting of this report, no official translation is available to the Government's reply. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply.

(i) JUA 28/10/2015 Case No. EGY 15/2015 State reply: 28/12/2015 **Allegations concerning the torture and ill-treatment during detention, and of a confession obtained under torture, of Mr Hassan Mahmoud Ragab El Kabany.**

140. The Special Rapporteur thanks the Government of Egypt for its reply, dated 28 December 2015, to the present communication.

141. He regrets that, as of the drafting of this report, no official translation is available to the Government's reply. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply

(j) JAL 10/11/2015 Case No. EGY 16/2015 State Reply: None to date **Allegations concerning the arrest and detention of human rights defender Mr. Hossam Bahgat.**

142. The Special Rapporteur regrets that the Government of Egypt has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

143. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus that the Government of Egypt, by failing to protect the physical and psychological integrity of Mr. Hossam Bahgat, including by subjecting him to incommunicado detention, has violated his right to be free from cruel, inhuman or degrading treatment or punishment, as provided by articles 2 and 16 of the CAT.

144. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, the Government of Egypt has released Mr. Hossam Bahgat. The Special Rapporteur welcomes this development and would like to remind the State that prolonged incommunicado detention can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, as stated in the paragraph 27 of General Assembly Resolution 68/156.

Ethiopia

(a) JUA 27/02/2015 and JUA 12/05/2015 Case No. ETH 1/2015 and ETH 3/2015 State Reply: None to date **Allegations concerning the arbitrary arrest, detention, cruel, inhuman or degrading treatment, continued prolonged solitary confinement, and imposition of two death sentences of Mr. Andargachew Tsege, a British national, following his forced rendition and the imposition of an arbitrary death sentence, as well as allegations concerning his deteriorating mental and physical health.**

145. The Special Rapporteur regrets that the Federal Democratic Republic of Ethiopia has not replied to the present communications (both ETH 1/2015 and ETH 3/2015), thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular the letter expressed concerns regarding the alleged arbitrary arrest and detention, as well the prolonged solitary confinement and incommunicado detention, of Mr. Tsege, a British national and a political activist who has advocated for free elections and civil rights in Ethiopia. Mr. Tsege was tried in absentia for his political activism and sentenced to death and on 23 June 2014, Mr. Tsege was arrested in Yemen and then detained and sent back to Ethiopia where he has been denied access to his family and allegedly suffered cruel and inhumane treatment.

146. With regards to the allegations of prolonged solitary confinement, the Special Rapporteur would like to recall his interim report to the General Assembly of 5 August 2011 (A/66/268), wherein he defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156 – Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

147. Furthermore, with regards to the allegations of imposition of the death penalty, as observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty if imposed or executed under circumstances that violate such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

148. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above and thus, that the Federal Democratic Republic of Ethiopia, by subjecting Mr. Tsege to torture, ill-treatment, prolonged solitary confinement and incommunicado detention, by denying him access to adequate medical care and legal process, and by sentencing him to death without due process for a non-violent crime, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as codified in the Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), which Ethiopia acceded on 14 March 1994. The Special Rapporteur also welcomes the opinion adopted by the UN Working Group on Arbitrary detention, dated 8 May 2015 (reference No. 2/2015) wherein the detention of Mr. Tsege is considered arbitrary.

149. The Special Rapporteur strongly urges the State of Ethiopia to observe rigorously the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights and article 1 or article 16 of the Convention against Torture. He further urges the State to take all necessary interim measures to ensure the full protection of Mr. Tsege against any violation of his human rights, including the commutation of his death penalty.

(b) JUA 26/02/2015 Case No. ETH 2/2015 State Reply: None to date **Allegations concerning the detention and criminalization under the Government's 2009 Anti-Terrorism Proclamation of six members of Zone Nine bloggers and three journalists.**

150. The Special Rapporteur regrets that the Federal Democratic Republic of Ethiopia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

151. In particular the letter expressed grave concerns over allegations of arrests on 25 and 26 April 2014 and detention of bloggers and journalists engaged in political activism for allegedly violating the 2009 Anti-Terrorism Proclamation, namely Messrs. Befeqadu Hailu, Atenaf Berahane, Zelalem Kibret, Natnael Feleke, Abel Wabela, Ms. Mahlet Fantahun, members of Zone Nine Bloggers and Mr. Tesfalem Waldyes, Mr. Asmamaw Giorigis and Ms. Edom Kasaye, independent freelance bloggers, as well as their ill-treatment and possibly torture during detention.

152. In the absence of information to the contrary, the Rapporteur concludes that there is substance to the allegations presented in the initial communication available via the link above and thus, that the Federal Democratic Republic of Ethiopia by submitting Mr. Hailu, Mr. Berahane, Mr. Kibret, Mr. Feleke, Mr. Wabela, Ms. Fantahun, Mr. Waldyes, Mr. Giorigis and Ms. Kasaye to ill-treatment and possibly torture in violation of Article 1 of the Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) which Ethiopia acceded to on 14 March 1994.

Gambia

(a) JAL 09/04/2015 Case No. GMB 1/2015 State Reply: None to date **Allegations concerning the circumstances of the death of three men allegedly involved in an attempted coup d'état on 30 December 2014 as well as the round of arrests, abductions and illegal detentions following that event.**

153. The Special Rapportuer regrets that the Government of the Gambia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its reolution 25/13.

154. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above and is therefore of the view that the Government of the Gambia, by failing to investigate the circumstances surrounding the death of three men allegedly involved in a coup d'état against the Government of the Gambia and the arrests, abductions and illegal detention of at least thirty persons, including family members of the alleged plotters and a child that followed, has violated the right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1, 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

155. The State is urged to consider all necessary measures to safeguard the rights of the persons detained and to ensure a prompt, thorough, independent and impartial investigation into the aforementioned deaths and in the event that the investigations support or suggest the allegations to be correct, to ensure the accountability of any person responsible for the alleged violations.

(b) JUA 24/07/2015 Case No. GMB 2/2015 State Reply: None to date **Allegations concerning the Act to amend the 1997 Constitution of the Gambia, which would expand the list of offenses punishable by death sentence.**

156. The Special Rapporteur regrets that the Government of Gambia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

157. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Gambia, by seeking to pass the Act to amend Section 18(2) of the 1997 Constitution and expand the list of offences punishable by death, fails to comply with international standards regarding the imposition of the death penalty by not limiting the imposition of the death penalty only for the most serious crimes per article 6(2) of International Covenant on Civil and Political Rights (ICCPR).

158. As observed by the Special Rapporteur in his report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary international law, if it has not already done so (para. 74). Even if the development of this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para 75).

159. The Rapporteur strongly condemns the proposed plan to amend Section 18(2) of the Constitution to expand the list of offenses punishable by death, and urges the Government of The Gambia to respect the rights of all persons to be free from torture and other cruel, inhuman or degrading treatment or punishment, per articles 2 and 16 of CAT and article 7 of the ICCPR. The Rapporteur strongly urges the Government of The Gambia to take all steps necessary to ensure that Section 18(2) the Constitution fully complies with international standards regarding the imposition of the death penalty and other measures to combat crime are in compliance with the State's international obligations, and further to reduce the number of offences for which the death penalty may be imposed, as well as to establish a moratorium on execution with a view to abolishing the death penalty (A/RES/65/206).

Guatemala

JAL 22/12/2014 Case No. GTM 8/2014 State Replies: 26/12/14 and 15/01/15 **Alegaciones relativas a una posible aplicación de amnistía al ex Jefe de Estado José Efraín Ríos Montt por los delitos de genocidio y crímenes de lesa humanidad y alegaciones sobre la falta de garantías en el proceso de selección de magistrados de la Corte Suprema de Justicia y de las salas de apelaciones, para el período 2014-2019.**

160. El Relator Especial agradece al Gobierno de Guatemala por sus respuestas a la comunicación conjunta con otros procedimientos especiales, de fechas 26 de diciembre de 2014 y 15 le enero de 2015. En particular la comunicación hacía referencia a la situación del juicio por genocidio y crímenes de lesa humanidad del ex Jefe del Estado, José Efraín Ríos Montt, así como también la posible aplicación del Decreto de Amnistía.

161. El Relator Especial aprecia el esfuerzo del Gobierno en responder detalladamente a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial sobre las alegaciones relativas al peligro que presenta otorgar una amnistía al ex Jefe de Estado José Efraín Ríos Montt, en especial al indicar que el Decreto de Amnistía Ley 8-86 no se encuentra vigente. Sin embargo, la anulación del juicio en contra del ex Jefe del Estado, José Efraín Ríos Montt, dejaría sin una efectiva investigación y reparación a las víctimas de estos delitos.

162. El Relator Especial ha tenido conocimiento en la elaboración de este informe que ha sido suspendido el juicio que la Sala de Apelaciones ordenó al declarar sin lugar la solicitud del acusado José Efraín Ríos Montt de acogerse al Decreto 8-86. . El Relator Especial lamenta esta decisión y en consecuencia reitera al Gobierno de Guatemala su obligación al respecto del artículo 12 de la Convención contra la tortura y otros tratos o penas crueles (CAT), inhumanos o degradantes, ratificada por Guatemala, que requiere que todo Estado Parte realice una investigación pronta e imparcial en caso de sospecha de tortura, y el artículo 7 de la Convención que requiere que todo Estado Parte enjuicie a los presuntos autores de actos de tortura.

Guinea

JUA 07/04/15 Case No. GIN 1/2015 State Reply: None to date **Allégations d'agression, incluant des coups, des insultes et des menaces, contre la personne de M. X, avocat et défenseur des droits de l'homme, par des membres de la Garde présidentielle.**

163. Le Rapporteur spécial regrette que le gouvernement de Guinée n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13.

164. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-

dessus. En échouant à prendre des mesures afin d'assurer l'intégrité physique et psychologique de M. X et de diligenter une enquête sur les violations perpétrées et de traduire les responsables en justice, la Guinée a failli à se conformer à l'interdiction absolue de tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

Hungary

JAL 07/09/2015 Case No. HUN 1/2015 State Reply: 24/11/2015 **Allegations concerning actions which prevent the mobility of asylum seekers and migrants by, for example, sealing off a train station to prevent them from leaving Hungary and plans to erect a four-meter-high fence to seal its 175-kilometer border with Serbia, and other actions in contravention of non-refoulement obligation.**

165. The Special Rapporteur thanks the Government of Hungary for its reply, dated 24 November 2015, to the present communication.

166. The Rapporteur takes note of the information provided by the Government that the purpose of the fence is to channel the flow of migrants and asylum seekers towards designated crossing points, and that the Government will do its best to keep the migration flow within the EU legal framework including the protection of external borders, the registration of asylum seekers and action against human traffickers. In spite of the information supplied by the Government, its reply fails to inform the Rapporteur about the Government's consideration of its non-refoulement obligation.

167. the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above and that the Government of Hungary, by failing to give immigrants a fair opportunity to state a claim that an impending extradition, deportation or expulsion puts him or her at risk of torture, has violated its obligations, as provided by articles 2, 3 and 16 of the CAT.

India

(a) JAL 11/03/2015 and JAL 17/11/2015 Case No. IND 3/2015 and IND 14/2015 State Reply: None to date **Allegations concerning substandard and unsafe sterilization camps which resulted in the deaths of 13 women and the critical condition of 70 others in the state of Chhattisgarh.**

168. The Special Rapporteur regrets that the Government of India has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular, the letters expressed grave concerns regarding the reported unsafe, substandard and unethical practice of sterilization of women in Government sponsored camps in the state of Chhattisgarh resulting in deaths and medical complications, and the absence of accountability for such unethical and dangerous medical practices, and the lack of remedy for families and victims.

169. The Special Rapporteur would like to remind the Government of India of the absolute and non-derogable prohibition of torture and other cruel, inhuman or degrading treatment or punishment, as an international norm of jus cogens, and as codified, inter alia, in Human Rights Council Resolution 25/13 and General Assembly Resolution 68/156. Health care practices that result in unnecessary pain and suffering through actions that nullify free and informed consent on the part of their subjects, constitute a violation of the State's obligations regarding the absolute prohibition of ill-treatment.

170. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communications, available via the links above, and thus, that the Government of India, by failing to protect the physical and psychological integrity of women in sterilization camps, violated their right to be free from torture and cruel, inhuman or degrading treatment as codified in the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

(b) JAL 6/11/2015 Case No. IND 13/2015 State Reply: None to date **Allegations concerning torture, ill-treatment, and sexual violence against Ms. Huidrom Sharda Devi and Ms. Nengneikim Haokip; and concerning torture, ill-treatment, and sexual violence against, and killing of, Ms. Thangjam Manorama Devi and X, a disabled ten year old girl.**

171. The Special Rapporteur expresses serious concern that the Government of the India has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council Resolution 25/13.

172. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of India, by failing to protect the rights to life of **X** and Ms. Thangjam Manorama Devi, and the rights to physical integrity and freedom from exploitation and sexual violence of Ms. Huidrom Sharda Devi, Ms. Nengneikim Haokip, and Ms. Thangjam Manorama Devi, and **X**, has violated their rights to be free from torture or cruel, inhuman or degrading treatment, as provided for, inter alia, Article 1, Article 2 and Article 16 of the Convention Against Torture (CAT).

173. The Rapporteur calls on the Government of India to undertake a prompt, independent, and effective investigation into the allegations of torture and cruel, inhuman or degrading treatment leading to the prosecution and punishment of the perpetrators, provide full redress to the victims and their family members, and undertake effective measures to prevent the recurrence of these acts. The Rapporteur expects to be kept fully informed of the outcome of the investigation and proceedings.

(c) JUA 10/12/2014 Case No. IDN 6/2014 State Reply: None to date **Allegations concerning the imminent risk of execution of five prisoners in Indonesia.**

174. The Special Rapporteur regrets that the Government of Indonesia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular the letter expressed grave concerns regarding the use of death penalty that may be carried out against several prisoners who have been convicted on drug-related charges, which does not meet the threshold of "most serious crimes" that would warrant the death penalty under international law.

175. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

176. In the absence of information to the contrary, the Rapporteur concludes that there is

substance in the allegations presented in the initial communication, available via the link above, and thus that the Government of Indonesia, by seeking to execute the death penalty for offenses that do not reach the threshold of "the most serious crimes" and giving little or no prior warning to the condemned prisoners and their families, has violated their right to be free from torture or cruel, inhuman or degrading treatment.

177. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; (para. 79 A/67/279). He calls upon the government of Indonesia to observe rigorously the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights and article 1 or article 16 of the Convention against Torture.

(d) JUA 16/01/2015 Case No. IDN 1/2015 State Reply: None to date **Allegations concerning the imminent risk of execution of the following ten prisoners in Indonesia: Rani Andriani, Daniel Enemuo, Namaona Denis, Tran Thi Bich Hanh, Marco Archer Cardoso Moreira, Kiem Soei Ang, Agus Hadi, Pujo Lestari, Gunawan Santoso, and Tan Joni.**

178. The Special Rapporteur regrets that the Government of Indonesia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular the letter expressed grave concerns regarding the use of death penalty against ten prisoners.

179. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame debate of the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so.

180. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, Daniel Enemuo, Namaona Denis, Tran Thi Bich Hanh, Marco Moreira, Ang Kiem Soei and Rani Andriani have been executed. The Rapporteur strongly condemns these acts through which the Government of Indonesia has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided under customary international law and article 7 of the International Covenant on Civil and Political Rights.

181. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, since it causes severe mental and physical pain or suffering and thus constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (A/67/279). He strongly urges the Government of Indonesia to refrain from carrying out death sentences and abolish the practice of executions.

(e) JUA 06/03/2015 Case No. IDN 2/2015 State Reply: None to date **Allegations concerning the risk of imminent execution of 10 prisoners in Indonesia.**

182. The Special Rapporteur regrets that the Government of Indonesia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular the letter expressed grave concerns regarding the death penalty to be carried out against several prisoners convicted on drug-related charges, which does not meet the threshold of "most serious crimes" under international law, including one detainee, Rodrigo Gularte, who has been diagnosed as having psycho-social disabilities.

183. As observed by the Special Rapporteur in his 2012-report to the General Assembly

(A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75). The Special Rapporteur further recalls that the execution of persons who are mentally disabled is per se a violation of an existing norm of customary international law (para. 64).

184. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of Indonesia, by seeking to execute the death penalty for offenses that do not reach the threshold of "the most serious crime" -- because they do not involve loss of life -- has violated the above named individuals' right to be free from torture or other cruel, inhuman or degrading treatment or punishment.

185. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, the execution of Rodrigo Gularte already occurred. The Special Rapporteur concludes that Indonesia has violated its international obligation by the execution of persons who are mentally disabled, an act that is per se a violation of an existing norm of customary international law (A/67/279 para. 64).

186. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; (para. 79 A/67/279) and strongly urges the Government of Indonesia to refrain from carrying out death sentences and abolish the practice of executions.

(f) JUA 21/05/2015 Case No. IDN 5/2015 State reply: None to date **Allegation concerning "push back" policies of migrants and asylum seekers from Myanmar and Bangladesh in the Bay of Bengal.**

187. The Special Rapporteur regrets that the Government of Indonesia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

188. The Special Rapporteur would like to draw the Government's attention to article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by Indonesia on 28 October 1998, which provides that no State party shall expel, return ("refouler"), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In this context, at paragraph 9 of General Comment No. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the Human Rights Committee stated that State parties "must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement." Furthermore, paragraph 9 of the Resolution A/RES/61/253 of the UN General Assembly urges States "not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture."

189. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Indonesia has violated the right of migrants and asylum seekers from Myanmar and Bangladesh to be free from torture or

cruel, inhuman or degrading treatment, as provided by article 3 of the CAT by implementing a "push back" policy that effectively denies intending immigrants a fair opportunity to state a claim.

190. The Special Rapporteur strongly urges the Government of Indonesia not to implement any policies that may result in migrants and asylum seekers being returned to a country where they may face violence, persecution, torture or other cruel, inhuman or degrading treatment or punishment or other serious human rights violations.

Iran (Islamic Republic of)

(a) JUA 24/03/2014 Case No. IRN 4/2014 State Reply: 30/06/2014 and 21/04/2015 **Allegations concerning the deteriorating health of Mr. Mohammad Reza Pourshajari, who has been in prison since 2010.**

191. The Special Rapporteur thanks the Government of the Iran for its replies, dated 30 June 2014 and 21 April 2015, to the present communication. The Rapporteur takes note of the information provided that the general condition of health of Mr. Mohammad Reza Pourshajari is satisfactory and his health condition is under control but finds that the reply does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication.

192. The Special Rapporteur draws the attention of the Government to the UN Standard Minimum Rules for the Treatment of Prisoners (reviewed on 5 November 2015 and renamed the "Mandela Rules") and in particular Rule 27(1) provides that, all prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.

193. The Special Rapporteur also reminds the State of Iran that the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. The Special Rapporteur also encourages the Government to continue its engagement with the mandate and to provide full details of the health conditions of Mr. Mohammad Reza Pourshajari.

(b) JUA 02/10/2014 Case No. IRN 19/2014 State Reply: 09/02/2015 **Allegations concerning the imminent risk of execution and torture and other ill-treatment, arbitrary arrest and detention, including in solitary confinement, and denial of due process of Mr. Sayyed Hossein Kazemeyni Boroujerdi.**

194. The Special Rapporteur thanks the Government of Iran for its reply, dated 09 February 2015, to the present communication.

195. The Rapporteur acknowledges the account of the Government in response to the concerns, legal obligations and questions raised in the initial communication. He welcomes the information provided by the Government according to which Mr. Hossein Kazemayni Boroujerdi was arrested on charges of acting against the internal security of the state, afforded due process and sentenced to 11 years of imprisonment following his conviction (confirmed by Appeals Court). The Special Rapporteur in particular welcomes the information that Mr. Boroujerdi has not been sentenced to death. The Rapporteur however regrets the lack of information in the State's reply on the allegations of torture and other ill-treatment, arbitrary arrest and detention, including solitary confinement.

196. The Special Rapporteur urges the Government of Iran to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture

and other cruel, inhuman or degrading treatment or punishment, and invites the Government of Iran to keep him informed of the outcome of any further investigation and prosecution.

197. In the Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156 – Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

198. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

199. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of Iran, by subjecting Mr. Hossein Kazemayni Boroujerdi to prolonged solitary confinement, physical abuse and ill-treatment, has thus violated his right to be free from torture or cruel, inhuman or degrading treatment.

200. The Rapporteur strongly urges the Government of Iran to protect the right of Mr. Hossein Kazemayni Boroujerdi to be free from torture or cruel, inhuman or degrading treatment.

(c) JUA 7/10/2014. Case No. IRN 21/2014 State Reply: 13/02/2015 **Allegations concerning the imminent risk of execution of Ms. Reyhaneh Jabbari, after being sentenced to death on charges of murder, after a trial that did not meet fair trial and due process guarantees.**

201. The Special Rapporteur thanks the Government of Iran for its reply, dated 13.02.2015, to the present communication.

202. The information provided by the Government is duly noted that Ms. Jabbari had been sentenced to death for the murder of Mr. Morteza Abdol'alli Sarbandi, and was executed on 25 October, 2015, after confirmation of the verdict by the Supreme Court of Iran and failure to obtain consent from the victim's family to waive the execution.

203. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74).

204. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

205. Furthermore, as stated in his 2012-report (A/67/279), the Special Rapporteur calls upon the Islamic Republic of Iran to observe rigorously the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights (para. 80).

206. The Rapporteur strongly condemns the execution of Ms. Reyhaneh Jabbari, and concludes that the Government of Iran, in executing Ms. Reyhaneh Jabbari, has violated her right to be free from torture or cruel, inhuman or degrading treatment, as provided by article 7 of the International Covenant on Civil and Political Rights. The Rapporteur strongly urges the Government of Iran to refrain from carrying out death sentences and abolish the practice of executions.

(d) JUA 25/11/2014 Case No. IRN 28/2014 State Reply: 21/04/2015 **Allegations concerning the physical and psychological torture and ill-treatment, prolonged solitary confinement, denial of adequate medical care, and introduction of new charges against Dr. Mohammad Ali Taheri, the founder of a spiritual group called Erfan-e-Halgheh (interuniversalism), and the re-arrest of Mr. Mohammad Reza Pourshajari.**

207. The Special Rapporteur thanks the Government of the Iran for its reply, dated 21 April 2015, to the present communication. The Rapporteur takes note of the information provided that the general condition of health of Mr. Mohammad Reza Pourshajari is satisfactory but fails to inform the Rapporteur about the physical and psychological health of Dr. Mohammad Ali Taheri, and he finds that the reply does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication.

208. The Special Rapporteur draws the attention of the Government to the Standard Minimum Rules for the Treatment of Prisoners (reviewed on 5 November 2015 and renamed the "Mandela Rules") and in particular Rule 27(1) which provides that, all prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care.

209. In the Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156. Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

210. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Iran by failing to protect the physical and psychological integrity of Dr. Mohammad Ali Taheri, including by subjecting him to prolonged solitary confinement, has violated his right to be free from or cruel, inhuman or degrading treatment.

211. The Special Rapporteur also reminds the State of Iran that the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to inhuman and degrading treatment. The Special Rapporteur also encourages the Government to continue its engagement with the mandate.

(e) JUA 16/01/2015 Case No. IRN 1/2015 State Reply: None to date **Allegations concerning the arrest and detention of Ms. Atena Farghdani.**

212. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular the letter expressed grave concerns regarding the situation of Ms. Atena Farghdani a graphic arts student from Al Zahra University in Tehran who has been detained after responding to a court summon.

213. The Special Rapporteur recalls his interim report to the General Assembly of 5 August 2011 (A/66/268), wherein he defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156 – Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

214. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of Iran, has subjected Ms. Atena Farghdani to prolonged solitary confinement and has thus violated her right to be free from or cruel, inhuman or degrading treatment.

215. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, Ms. Atena Farghdani was sentenced to 12 years and nine months imprisonment; and is facing a new trial because of the crime of sub-adultery for shaking hands with her lawyer. The Special Rapporteur express concerns about this new information and calls upon the government of Iran to protect her right to be free from torture or cruel, inhuman or degrading treatment.

(f) JUA 12/02/2015 Case No. IRN 3/2015 State Reply: 16/06/2015 **Allegations concerning the situation of Mr. Saman Naseem, a juvenile offender, who is reportedly at risk of imminent execution in the Islamic Republic of Iran.**

216. The Special Rapporteur thanks the Government of Iran for its reply, dated June 16 2015, to the present communication. The Rapporteur takes note of the information provided by the Government regarding the criminal proceedings against Mr. Saman Naseem and informing him that the verdict against Mr. Naseem has not yet been executed.

217. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur

further recalls that the execution of persons who are under the age of 18 at the time the crime is committed is per se a violation of an existing norm of customary international law (para. 64).

218. The Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of Iran, by not taking steps to prevent the execution of Mr. Saman Naseem, a juvenile at the time of the commission of the crime, violates his right to be free from torture or cruel, inhuman or degrading treatment.

219. It has come to the Rapporteur's attention that Mr. Naseem was still alive and in detention in July 2015 but it is unclear whether the death penalty has been executed since then or not.

220. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79 A/67/279). He calls upon *the government of Iran* to observe rigorously the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights.

(g) JUA 04/06/2015 Case No. IRN 6/2015 State Reply: None to Date **Allegations concerning the situation of Ms. Atena Farghadani, a graphic arts student who has been detained since August 2014, Mr. Jason Rezaian, an American-Iranian journalist who has been detained since July 2014, and the trial of Mr. Rezaian and his wife, Ms. Yeganeh Salehi, also a journalist.**

221. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

222. The Special Rapporteur recalls his interim report to the General Assembly of 5 August 2011 (A/66/268), wherein he defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156. Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

223. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government has subjected Ms. Atena Farghdani to prolonged solitary confinement and has thus violated her right to be free from torture or cruel, inhuman or degrading treatment, and that the Government has further failed to protect the physical and psychological integrity of Mr. Jason Rezaian and Ms. Yeganeh Salehi by arbitrarily detaining them and denying their right to a fair trial.

224. The Rapporteur strongly urges the Government to protect the right of Ms. Farghadani and Mr. Rezaian to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

225. The Rapporteur notes that Mr. Rezaian and his wife were released from prison and allowed to leave Iran as part of a prisoner exchange between the governments of Iran and the United States.

(h) JUA 02/06/2015 Case No. IRN 7/2015 State Reply: None to date **Allegations concerning the situation of Mr. Saman Naseem and Mr. Hamid Ahmadi, both minors at the time of the commission of the crime and at risk of imminent execution.**

226. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

227. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty when imposed or executed under circumstances that violate such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

228. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79 A/67/279). He calls upon the Government to observe rigorously the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights. The Special Rapporteur further recalls that the execution of persons who are under the age of 18 at the time the crime is committed is per se a violation of an existing norm of customary international law (para. 64).

229. Furthermore, as stated in his 2012-report (A/67/279), the Special Rapporteur calls upon the Government to observe rigorously the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights and article 1 or article 16 of the Convention against Torture. He calls upon retentionist States inter alia to ensure that the method of execution employed causes the least possible physical and mental suffering and that it does not violate the prohibition of torture and cruel, inhuman or degrading treatment (para. 80(b)), to refrain from carrying out executions in public or in any other degrading manner, and end the practice of executions with little or no prior warning given to condemned prisoners and their families (para. 80 (c)).

230. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government, by sentencing to death Mr. Naseem and Mr. Ahmadi, both juveniles at the time of the commission of the crime, has violated their right to be free from torture or cruel, inhuman or degrading treatment.

231. The Rapporteur strongly urges the State to take all necessary interim measures to ensure the full protection of Mr. Naseem and Mr. Ahmadi against any violation of their human rights, including the commutation of their death penalty.

(i) JUA 10/06/2015 Case No. IRN 8/2015 State Reply: None to Date **Allegations concerning torture, solitary confinement, denial of due process, and risk of imminent execution, of Mr. Ehsan Shah Ghasemi.**

232. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

233. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty when imposed or executed under circumstances that violate such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

234. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

235. In the Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156. Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

236. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government, by failing to protect the physical and psychological integrity of Mr. Ehsan Shah Ghasemi, has violated his right to be free from torture or cruel, inhuman or degrading treatment.

237. The Rapporteur strongly urges the Government to take all necessary interim measures to ensure the full protection of Mr. Ghasemi against any violation of his human rights, including the commutation of his death penalty.

(j) JUA 24/06/2015 Case No. IRN 9/2015 State Reply: None to Date **Allegations concerning the detention and sentencing of civil rights activist Ms. Atena Daemi and of journalist Mr. Seraj Mirdamadi, following unfair trials.**

238. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

239. In the Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading

treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, as reiterated in paragraph 28 of the General Assembly resolution 68/156. Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

240. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of Iran, by failing to protect the physical and psychological integrity of Ms. Atena Daemi and Mr. Seraj Mirdamadi, including by subjecting them to prolonged solitary confinement, has violated their right to be free from torture or cruel, inhuman or degrading treatment.

(k) JUA 10/08/2015 Case No. IRN 12/2015 State Reply: None to date **Allegations concerning the death sentence imposed on Dr. Mohammed Ali Taheri for the conduct of peaceful activities on charges for the vague offense of *Mosfed fel Arz*, or spreading corruption on earth, which does not meet international law requirements for clarity and precision for criminal convictions.**

241. The Special Rapporteur regrets that the Government of the Islamic republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

242. As observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty when imposed or executed under circumstances violating such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

243. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79). Furthermore, as stated in his 2012-report (A/67/279), the Special Rapporteur calls upon Iran to observe rigorously the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights and article 1 or article 16 of the Convention against Torture.

244. The Rapporteur strongly condemns the sentence of death imposed upon Dr. Taheri for exercising his right to freedom of opinion and expression and concludes that the Government, in sentencing him to death, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the Convention Against Torture and article 7 of the International Covenant on Civil and Political Rights.

245. The Rapporteur urges the State to take all necessary interim measures to ensure the full protection of Dr. Mohammed Ali Taheri against any violation of his human rights, including the commutation of his death penalty. He further calls on the Government to refrain from carrying out death sentences and abolish the practice of executions.

(l) JUA 12/08/2015 Case No. IRN 13/2015 State Reply: None to date **Allegations of prolonged solitary confinement and ill-treatment of Mr. Jason Rezaian, international journalist and double-national of the Islamic Republic of Iran and the United States of America**

246. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

247. The Special Rapporteur recalls his interim report to the General Assembly of 5 August 2011 (A/66/268), wherein he defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156 – Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

248. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of the Islamic Republic of Iran, by submitting Mr. Jason Rezaian to prolonged solitary confinement (at least 5 months), and by failing to provide him with adequate medical care, has violated his right to be free from torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in article 7 of the International Covenant on Civil and Political Rights.

249. Before the publication of this report, Mr. Rezaian has been freed in an exchange of prisoners with the United States.

(m) JAL 20/08/2015 Case No. IRN 14/2015 State Reply: None to date **Allegations concerning the application of corporal punishments against individuals including Mr. Hamid, Mr. Kamran Jamalzadeh, Mr. Hamed, Mr. Rahman K. and a number of unidentified prisoners.**

250. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

251. The Special Rapporteur recalls that any form of corporal punishment constitutes cruel, inhuman or degrading punishment or even torture in violation of customary international law. An imposition of such penalty, even if not actually executed, is itself a threat of pain and suffering of a mental nature that is equally prohibited by international law.

252. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, and that the government, by subjecting Mr. Hamid, Mr. Kamran Jamalzadeh, Mr. Hamed, Mr. Rahman K. and a number of unidentified prisoners to corporal punishment has violated their right to be free from torture and other cruel, inhuman or degrading treatment or punishment.. With

regards to the present case, the Special Rapporteur recalls article 7 of the International Covenant on Civil and Political Rights (ICCPR), paragraph 5 of General Comment No. 20 of the Human Rights Committee, and paragraph 7a of Resolution 8/8 of the Human Rights Council.

(n) JAL 29/10/2015 Case No. IRN 16/2015 State Reply: None to date **Allegations concerning the execution of Mr. Behrouz Alkhani.**

253. The Special Rapporteur regrets that the Government of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

254. As observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty if imposed or executed in circumstances that violate such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79). In addition, he calls upon retentionist States to end the practice of executions with little or no prior warning given to condemned prisoners and their families (para. 80 (c)).

255. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Iran, by executing Mr. Behrouz Alkhani following judicial procedures that did not fulfill the most stringent guarantees of fair trial and due process, has violated his right not to be arbitrarily deprived of his life and his right to be free from torture or cruel, inhuman or degrading treatment as provided by articles 6 and 7 of the International Covenant on Civil and Political Rights (ICCPR).

(o) JAL 05/10/2015 Case No. IRN 17/2015 State Reply: None to date **Allegations concerning substandard prison conditions and denial of access to medical services to Mr. Shahrokh Zamani, who died of a stroke while in custody in Raja'i Shahr Prison.**

256. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

257. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of the Islamic Republic of Iran, by failing to provide adequate detention conditions and adequate medical care, has violated Mr. Shahrokh Zamani's right to be free from cruel, inhuman or degrading treatment or punishment as provided, inter alia, by article 7 of the ICCPR.

(p) JUA 13/10/2015 Case No. IRN 18/2015 State Reply: 24/11/2015 **Allegations concerning the heath and status of political prisoner Dr. Mohammed Ali Taheri, on hunger strike in custody following the imposition of a death sentences on charges of *Mosfed fel Arz*, or spreading corruption on earth.**

258. The Special Rapporteur thanks the Government of the Islamic Republic of Iran for its reply, dated 24/11/2015, to the present communication.

259. The Rapporteur takes note of the information provided by the Government that Dr. Taheri was arrested and prosecuted according to applicable Islamic law. However, no information was given as to the state of health or place of detention of Dr. Taheri. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communications, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

260. In the Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156. Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

261. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government has subjected Dr. Taheri to prolonged solitary confinement and failed to protect his health and physical and psychological integrity by denying him proper medical attention, and has thus violated his right to be free from cruel, inhuman or degrading treatment.

262. The State is urged to take all necessary interim measures to ensure the full protection of Dr. Mohammed Ali Taheri against any violation of his human rights, including the commutation of his death penalty.

(q) JUA 29/10/2015 Case No. IRN 20/2015 State Reply: None to date **Allegations concerning the alleged arbitrary detention and continued harassment of three artists, Ms. Fatemah Ekhtesari, Ms. Mehdi Moosavi and Ms. Atena Farghadani and also the poor treatment of detained human rights activist, Ms. Narges Mohammadi.**

263. The Special Rapporteur regrets that the Government of the Islamic Republic of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council Resolution 25/13.

264. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Iran, by failing to protect the physical and psychological integrity of Ms. Fatemah Ekhtesari, Ms. Mehdi Moosavi, Ms. Atena Farghadan, and Ms. Narges Mohammadi, facilitates the perpetration of torture, and other cruel and inhuman or degrading treatment or punishment as provided for, inter alia, Article 2 and 16 of the Convention Against Torture (CAT).

(r) JUA 11/11/2015 Case No. IRN 21/2015 State Reply: None to date **Allegations concerning the alleged torture, denial of due process and fair trial of juvenile offenders, of Messrs. Mohammad Ali Zehi and Milad Azimi; and the alleged torture, denial of due process and fair trial, and impending execution of Mr. Shahram Ahmadi**

265. The Special Rapporteur regrets that the Government of Iran has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Right Council in its resolution 25/13.

266. As observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty if imposed or executed in violation of that prohibition, is developing into a norm of customary law, if it has not already done so (para 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

267. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of the Islamic Republic of Iran, by failing to protect the physical and psychological integrity of Mr. Mohammad Ali Zehi, Mr. Milad Azimi and Mr. Shahram Ahmadi, and by seeking the death penalty for offenses that do not reach the threshold of "the most serious crimes" under international law, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided for, inter alia, Articles 2 and 16 of the Convention Against Torture (CAT).

268. The Special Rapporteur emphasizes that the execution of persons who committed their crimes while they were under 18 years of age is per se a violation of an existing norm of customary international law (para 64).

269. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; (para 79 A/67/279). He calls upon the Government of the Islamic Republic of Iran to observe rigorously the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights and article 1 or article 16 of the Convention against Torture.

Iraq

(a) JUA 06/07/2015 Case No. IRQ 2/2015 State Reply: None to date **Allegations concerning the arbitrary arrest, incommunicado detention, torture, ill-treatment, enforced disappearance, denial of access to lawyer and adequate medical care, and risk of unfair trial, of Mr. Mohammed Abbas Kadhim al Sudani.**

270. The Special Rapporteur regrets that the Government of Iraq has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

271. In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government, by failing to protect the physical and psychological integrity of Mr. Mohammed al Sudani, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1, 2, 12, 15 and 16 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or

Punishment (CAT) and by articles 7 and 9 of the International Covenant on Civil and Political Rights (ICCPR).

272. The Special Rapporteur strongly urges the Government of Iraq to protect the right of Mr. Mohammed al Sudani to be free from torture or cruel, inhuman or degrading treatment, and to guarantee his fair trial, including by excluding any statement and confession made as a result of torture from any proceedings, in line with its international obligations, codified *inter alia* in the CAT and the ICCPR. The State is further urged to conduct a fair and impartial investigation into the allegations, to prosecute and punish those responsible, and to provide adequate redress to Mr. Mohammed al Sudani.

(b) JUA 27/11/2015 Case No. IRQ 5/2015 State Reply: 11/01/2016 **Allegations concerning Saleh Moussa Ahmed alBaidany, a Yemeni national, and Hamaad Abdel-Rahman Hamaad, a Saudi national, two juvenile offenders, who are reportedly at risk of imminent execution in Iraq.**

273. The Special Rapporteur thanks the Government of Iraq for its reply, dated 11 January 2016, to the present communication.

274. He regrets that, as of the drafting of this report, no official translation is available to the Government's reply. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply.

Israel

JUA 24/07/2015 Case No. ISR 3/2015State reply: 14/08/2015 **Allegations concerning the draft amendment to the Prisons Act, which allows for the force-feeding of prisoners, to be presented for the second and third readings at the Knesset on 7 July 2015.**

275. The Special Rapporteur thanks the Government of Israel for its reply, dated 14 August 2015, to the present communication.

276. The Special Rapporteur acknowledges the Government's reply in response to the concerns, legal obligations, and questions with respect to the force-feeding of prisoners raised in the present communication, and in a prior communication on this matter dated 20 June 2014. However, he laments the fact that the Government of Israel proceeded with the enactment of an amendment to its Prisons Act on 30 July 2015, in spite of the grave concerns raised by this and other special procedures mandate holders.

277. The Special Rapporteur reiterates his view that "feeding induced by threats, coercion, force or use of physical restraints of individuals, who have opted for the extreme recourse of a hunger strike to protest against their detention, are, even if intended for their benefit, tantamount to cruel, inhuman and degrading treatment" (Joint Press Release, 28 July 2015). Furthermore, the Special Rapporteur highlights the disproportionate impact this amendment will have on Palestinians who have undertaken hunger strikes in protest of their administrative detention.

278. Accordingly, the Special Rapporteur concludes that the Government of Israel, by passing a bill that provides for the force-feeding and medical treatment of prisoners against their will, violates the right of prisoners to be free from cruel, inhuman or degrading treatment, as provided by articles 1, 2 and 16 of the CAT.

279. The Special Rapporteur calls upon the Government of Israel to immediately cease the practice of force-feeding and refrain from using other coercive measures, and to look for alternative solutions to extreme situations resulting from hunger strikes, including good-faith dialogue with prisoners. The Rapporteur further offers the Government of Israel its guidance and assistance in these matters.

Italy

(a) JAL 02/06/2015 Case No. ITA 2/2015 State Reply: 05/08/2015 **Allegations concerning the beating, arbitrary arrest, and incommunicado detention of Mr. Abou Elkassim Britel.**

280. The Special Rapporteur thanks the Government of Italy for its reply, dated 5 August 2015, to the present communication.

281. The Rapporteur takes note of the information provided by the Government of Italy concerning its efforts to pay regular consular visits to Mr. Elkassim Britel in detention from December 2003 to December 2010, as well as its efforts to provide him with essential goods, facilitate his access to his lawyers while detained and otherwise "ease his living conditions." The Rapporteur likewise takes note of the Government's attempt to obtain information regarding "inhuman and degrading treatment" reported by Mr. Elkassim Britel. In spite of the information supplied by the government, it fails to inform the Rapporteur of steps taken by the Government to adequately investigate Mr. Elkassim Britel's allegations, particularly those concerning torture in Pakistan by Pakistani and American officials and those occurring later in Morocco, as well failing to address its efforts to prosecute and punish the offenders.

282. As observed by the Special Rapporteur in his 2015 report to the General Assembly (A/70/303), the core purpose of the Convention against Torture was the universalization of a regime of criminal punishment for perpetrators of torture, and the Convention provides for far-reaching extraterritorial obligations to bring perpetrators of torture to justice. Article 5 (1) obliges States to establish jurisdiction over all acts of torture on the territoriality, flag, active nationality and passi e nationality principles. All States have a customary international law obligation to investigate, prosecute and punish all acts of torture and other ill-treatment as codified, inter alia, in the Convention. para 44, 45.

283. The Special Rapporteur is further of the view that a State may be held responsible for its failure to preempt or remedy illicit conduct not directly attributable to it, such as when it fails to meet its due diligence obligations to prevent and protect persons from grave violations of human rights (,).He believes that victims have a fundamental right to a remedy that must be accessible regardless of where the violation occurred or whether the State exercising jurisdiction is the perpetrator State. An essential component of this obligation to provide redress is that States do not block or obstruct access to effective remedies by invoking "State secrets" or other doctrines to dismiss lawsuits *in limine litis*. The Special Rapporteur encourages States to provide civil remedies and rehabilitation for victims of foreign acts of torture or other ill-treatment and to ensure in their legal system that victims obtain redress regardless of who bears responsibility for mistreatment or where it took place (para. 70, 72).

284. The Rapporteur hence finds that there is substance in the allegations presented in the initial communication, available via the link above and encourages the Government of Italy to provide a remedy to Mr. Elkassim Britel, under the passive nationality principle, in its own courts, or in the alternative to request prosecution from Pakistan, Morocco or the United States of the alleged perpetrators in case of their non-extradition.

(b) JUA 28/08/2015 Case No. ITA 4/2015 State Reply: None to date **Allegations concerning the arrest of Mr. Rachid Mesli and the imminent risk that he may be extradited to Algeria.**

285. The Special Rapporteur regrets that the Government of Italy has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

286. It has come to the attention of the Special Rapporteur that, as of drafting the report, the extradition of Mr. Mesli has not taken place, and the Government of Italy has released him from house arrest.

287. The Rapporteur welcomes the decision of the Government of Italy to refrain from extraditing him and thereby complying with article 3 of the CAT. The Rapporteur strongly urges the Government of Italy to protect the right of Mr. Mesli to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT, and to refrain from extraditing or deporting Mr. Mesli to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, thereby ensuring compliance with article 3 of the CAT.

Kyrgyzstan

(a) JAL 22/05/2014 Case No. KGZ 2/2014 State Reply: 27/02/2015 **Allegations concerning the physical attack of Ms. Dinara Turdumatova, a human rights lawyer, by an official at the Ministry of Internal Affairs.**

288. The Special Rapporteur thanks the Government of Kyrgyzstan for its reply dated 27/02/2015 to the present communication. The Rapporteur acknowledges the account of the Government in response to the concerns, legal obligations, and questions raised in the initial communication. He welcomes the information provided by the Government, according to which an investigation into Ms. Turdumatova's allegations has been undertaken and the case is currently under investigation by the prosecutor's office. While he welcomes the extensive account given by the State, the Rapporteur regrets the lack of information on the potential biases of the witnesses interviewed, most of whom were also police officers or associated with the police department or suspects facing serious criminal charges.

289. The Special Rapporteur urges the Government of Kyrgyzstan to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, and invites the Government to keep him informed of the outcome of any further investigation and prosecution.

(b) JAL 21/09/2015 Case No. KGZ 3/2015 State Reply: 18/01/2016 **Allegations concerning alleged violations of the human rights of members of two minority religious groups in the Kyrgyz Republic: Elchilik Jiyini Church in Kemin district and Jehovah's Witnesses in the city of Osh.**

290. The Special Rapporteur thanks the Government of Kyrgystan for its reply, dated 18 January 2016, to the present communication. The reply in particular addresses the activities of representatives of religious organisations "like the Elchilik Jiyini Church and the Jehovah's Witnesses.

291. The Special Rapporteur regrets however that the reply, does not address the allegations of ill-treatment of members of the Jehova's Witnesses in the city of Osh, and concludes, in the absence of information to the contrary, that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of Kyrgyzstan, by failing to protect their physical and psychological integrity has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 2 and 16 of the CAT.

(c) JUA 25/02/2015 Case No. KGZ 1/2015 State Reply: 08/07/2015 **Allegations concerning the alleged arbitrary arrest, detention, torture and ill-treatment of Mr. Evgenii**

Kushtavkin, Ms. Tatiana Timchuck, Mr. Alexander Shushlebin and the arbitrary arrest and detention of Mr. Evgenii Shushleb.

292. The Special Rapporteur thanks the Government of the Krygz Republic for its reply dated 8 July 2015 to the present communication, which in particular expressed grave concerns regarding the arrests without warrant in August 2014 of the above named individuals, as well as allegations of torture and ill-treatment ofMr. Kushtavkin, Ms. Timchuk and Mr. Shushlebin and threats of sexual violence and a resulting miscarriage in the case of Ms. Timchuck.

293. The Rapporteur welcomes the Government's initiatives to revoke the decision to deny prosecution in the case of Ms. Timchuk's allegations and to take actions to investigate the infliction of psychological and physical suffering which allegedly resulted in her miscarriage.

294. However, the Rapporteur regrets and expresses concern that the Government has not re-opened investigations into the alleged torture and ill-treatment of the other individuals mentioned in the report.

295. The Rapporteur concludes that the Government of the Krygyz Republice has violated the right of Mr. Kushtavkin, Ms. Timchuck, Mr. Shushlebin Mr. E. Shushleb, to be free from to ture or cruel, inhuman or degrading treatment, as provided by article 2, 4, and 6 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Lebanon

JAL 15/01/2015 Case No. LBN 1/2015 State Reply : 05/03/2015 **Allégations de refus de la Sécurité Générale de délivrer le numéro de notification au Centre Nassim pour la réhabilitation des victimes de la torture, qui serait consécutif aux allégations de torture exprimées par les représentants de cette association.**

296. Le Rapporteur spécial remercie le Gouvernement pour les informations fournies en réponse à sa lettre du 15 janvier 2015 concernant les allégations susmentionnées.

297. Le Rapporteur spécial prend note de l'information selon laquelle le refus de délivrer un numéro de notification au Centre Nassim est fondé sur l'absence de siège et d'activité de cette association, et que la création de cette association est différée jusqu'à ce que les intéressés soient consultés.

298. Le Rapporteur spécial invite le Gouvernement à lui fournir des éléments actualisés sur la rencontre avec les représentants du Centre Nassim ainsi que sur la procédure de notification de l'association, en accord avec la législation nationale sur les associations qui ne requière pas d'autorisation préalable à leur création ainsi qu'avec les normes internationales contenues dans le Pacte international sur les droits civils et politiques et la Déclaration sur les défenseurs des droits de l'homme.

Lesotho

JUA 30/11/2015 Case No. LSO 1/2015 State Reply: None to date **Allegations concerning the alleged arbitrary arrest, detention, torture and ill-treatment, and unfair trial of at least 23 members of the Lesotho Defence Force; the alleged killing of the former Commander of the Lesotho Defense Force, Brigadier Maaparankoe Mahao by members of the Lesotho Defence Force; as well as alleged on-going threats and attacks**

against the independence of the judiciary and lawyers by the Lesotho Defence Force and the executive branch.

299. The Special Rapporteur regrets that the Government of Lesotho has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

300. In the Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156 – Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

301. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and that the Government of Lesotho, by subjecting at least 23 members of the Lesotho Defence Force to torture and ill-treatment following their alleged arbitrary arrest, including by subjecting 21 of them to prolonged solitary confinement (since mid-October 2015), and by failing to exclude evidence obtained under torture or ill-treatment, has violated the rights of the above mentioned individuals to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1, 2, 15, and 16 of the CAT and has failed to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

Madagascar

JAL 13/10/2015 Case No. MDG 1/2015 State Reply: None to date **Allégations de torture de la part des forces de l'ordre malgaches de 2012 à 2015, et dans le cadre de l'opération « Fahelemana 2015 ».**

302. Le Rapporteur spécial regrette que le gouvernement de Madagascar n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13.

303. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus. En échouant à investiguer les cas de torture présentés entre 2012 et 2015 et en la présence de nouvelles allégations de torture d'individus supposés être des voleurs de zébus par les forces de l'ordre depuis le lancement de l'opération « Fahelemana 2015 » en août dernier, Madagascar a failli à se conformer à l'interdiction absolue de tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

Malaysia

JUA 21/05/2015 Case No. MYS 2/2015 State reply: None to date **Allegation concerning "push back" policies of migrants and asylum seekers from Myanmar and Bangladesh in the Bay of Bengal.**

304. The Special Rapporteur regrets that the Government of Malaysia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

305. The Rapporteur would like to draw the Government's attention to article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) which provides that no State party shall expel, return ("refouler"), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In this regard, paragraph 9 of General Comment 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, in which the Human Rights Committee states that State parties "must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement." Furthermore, paragraph 9 of the Resolution A/RES/61/253 of the UN General Assembly urges States "not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture." The Special Rapporteur also insists that, although Malaysia is not a party to the CAT, it is bound by the international customary law rule codified in article 3 of the CAT that prohibits a State from expelling or extraditing a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture, which is an integral part of international human rights protection.

306. A 'push back' policy or practice effectively denies the intending immigrants a fair opportunity to state a claim that, if returned, they would face torture or cruel, inhuman or degrading treatment or punishment. In consequence, a 'push back' policy that has that effect constitutes a violation of a State's obligations under Art. 3 CAT.

307. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Malaysia by implementing a "push back" policy has violated the right of migrants and asylum seekers from Myanmar and Bangladesh to be free from torture or cruel, inhuman or degrading treatment, as provided by article 3 of the CAT.

308. The Special Rapporteur strongly urges the Government of Malaysia not to implement any policies that may result in migrants and asylum seekers being returned to a country where they may face violence, persecution, torture or other cruel, inhuman or degrading treatment or punishment or other serious human rights violations.

Mexico

(a) AL 16/09/2014 Case No. MEX 16/2014 State Reply: 06/02/2015 **Alegatos de actos de tortura sobre los Sres. Rodolfo Magaña Platas, Lauro González Cruz, Javier Borges Ávila, Jesús Octavio Vázquez Vargas e Idelfonso Juárez González**

309. El Relator Especial agradece al Gobierno de México por su respuesta – recibida el 6 de febrero de 2015 -- a la comunicación de fecha 16 de septiembre de 2014. En particular, la comunicación hacía referencia a las alegaciones de tortura en contra de Rodolfo Magaña

Platas, Lauro González Cruz, Javier Borges Ávila, Jesús Octavio Vázquez Vargas e Idelfonso Juárez González.

310. El Relator Especial aprecia el esfuerzo del Gobierno en responder las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial sobre las alegaciones presentadas. En especial, agradece la información recibida respecto del inicio de investigaciones por parte de la Comisión Estatal de Derechos Humanos (CEDH) las cuales se encuentran en la etapa de integración e investigación. Así también acoge con beneplácito la apertura de un procedimiento de averiguación de los presuntos hechos de tortura por parte de la Procuraduría General de Justicia, número 123/2013-III.

311. A pesar de esta información recibida, el Relator Especial expresa grave preocupación por la imposición de procesos de investigación y enjuiciamiento injustos a las personas objeto de esta comunicación. En este contexto, el Relator Especial recuerda al Gobierno de México su obligación a realizar un juicio justo e imparcial para investigar los acontecimientos y enjuiciar y sancionar a los responsables, de conformidad con el los artículos 7 y 12 de la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes. También el párrafo 7 (b) de la Resolución 16/23 del Consejo de Derechos Humanos, el cual insta a los Estados a que "adopten medidas constantes, decididas y eficaces para que toda denuncia de torturas o de otros tratos o penas crueles inhumanos o degradantes sea examinada rápida e imparcialmente por la autoridad nacional competente, para que las personas que fomenten, ordenen, toleren o cometan actos de tortura sean declaradas responsables y sancionadas severamente, incluidos los funcionarios a cargo del lugar de detención en que haya tenido lugar el acto prohibido […]." Finalmente, quisiéramos recordar al Estado que de conformidad con el artículo 15 de la CAT ninguna declaración obtenida como resultado de tortura podrá ser invocada como prueba.

312. El Relator Especial exhorta al Gobierno de México a poner en conocimiento de esta Relatoria los resultados de las investigaciones iniciadas.

(b) AL 22/09/2014 Case No. MEX 19/2014 State Reply: 09/02/2015 **Alegatos de actos de tortura sobre los Sres. Alejandro Ávila Arteaga y Juan Carlos Luna Ramírez.**

313. El Relator Especial agradece al Gobierno de México por su respuesta a la comunicación de fecha 22 de septiembre de 2014, mediante nota del 9 de febrero de 2015. La comunicación aludida hacía referencia a las alegaciones de torturas en perjuicio de los Sres. Alejandro Ávila Arteaga y Juan Carlos Luna Ramírez.

314. El Relator Especial aprecia el esfuerzo del Gobierno en responder a las inquietudes, obligaciones y preguntas incluidas en la comunicación inicial sobre las alegaciones presentadas. En especial, se agradece la información recibida respecto del inicio de investigaciones por parte de la Comisión Nacional de Derechos Humanos (CNDH), queja CNDH/1/201/9928/Q. La CNDH determinó que las lesiones traumáticas del Sr. Alejandro Ávila Arteaga no ponían en peligro su vida y que por sus dimensiones y localización eran accidentales y aseveró que no se había acreditado la responsabilidad de servidores públicos ni se encontraron elementos para adoptar sanciones. Además el Estado Mexicano considera que no existen elementos para otorgar compensación a las víctimas.

315. El Relator Especial observa que la investigación de la CNDH se llevó a cabo varios meses después de los hechos. Aun así se comprobaron lesiones que la misma pericia médico-forense considera contemporáneas con la fecha de la detención. El hecho de que las lesiones puedan sanar en menos de 15 días puede ser relevante para la caracterización de los hechos según el tipo penal en el derecho interno, pero no desmiente, antes bien corrobora, que los detenidos efectivamente fueron sometidos a malos tratos incompatibles con las obligaciones internacionales del Estado. El hecho de que no hayan hecho denuncia de apremios en el momento de su declaración indagatoria ante la Procuraduría tampoco sirve para acreditar la ausencia de tales malos tratos, dada la circunstancia de que tales

declaraciones se hacen en momentos en que las persona están y van a seguir detenidas, por lo que tienen un fundado temor de agravar sus sufrimientos si se animan a denunciar. Por otra parte, la comunicación detallaba la ilegalidad e irregularidad del procedimiento de detención de los dos afectados, por lo cual la detención en "flagrancia" aludida por el Gobierno no resulta convincente visto el abuso de la concepción de flagrancia que aplican las autoridades mexicanas encargadas del cumplimiento de la ley.

316. El Relator Especial exhorta al Gobierno de México, como Estado miembro de la Convención contra la Tortura, a que lleve a cabo una investigación profunda, independiente e imparcial de los hechos, y en su caso proceda al procesamiento y eventual condena de los responsables, así como a ofrecer compensación a las víctimas anteriormente mencionadas. Finalmente quisiéramos recordar al Estado que de conformidad con el artículo 15 de la CAT ninguna declaración obtenida como resultado de tortura podrá ser invocada como prueba.

317. El Relator Especial sobre la Tortura se permite exhortar al Gobierno de México a poner en conocimiento de esta Relatoría sobre las condiciones actuales de detención de las alegadas víctimas.

(c) AL 27/11/2014 Case No. MEX 23/2014 State Reply: 13/04/2015 **Alegatos de actos de tortura cometidos por personal de la Secretaría para la Defensa Nacional (SEDENA) sobre los Sres. Ramiro Ramírez Martínez, Orlando Santaolaya Villareal, Rodrigo Ramírez Martínez y Ramiro López Vásquez.**

318. El Relator Especial agradece al Gobierno de México su respuesta a la comunicación de fecha 27 de noviembre de 2014, que hacía referencia a las alegaciones de tortura en contra de los Sres. Ramiro Ramírez Martínez, Orlando Santaolaya Villareal, Rodrigo Ramírez Martínez y Ramiro López Vásquez.

319. El Relator Especial aprecia el esfuerzo del Gobierno en responder a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial sobre las alegaciones presentadas. En especial se agradece la información recibida al respecto de las investigaciones por parte de la Procuraduría General de la República denominadas Averiguación Previa Nro. AP/PGR/UEIDCSPCAJ/FECCSPFM/M-III/167/2012. Sin embargo, el Relator Especial observa con preocupación la ausencia de una investigación posterior a los resultados por parte de este organismo donde el delito de tortura fue negativo pero los malos tratos arrojaron resultados positivos.

320. El Relator Especial exhorta al Gobierno de México, como Estado miembro de la Convención contra la Tortura, a llevar a cabo una investigación independiente, imparcial, efectiva y exhaustiva sobre los hechos, que permita individualizar responsables y su eventual procesamiento y condena, así como la reparación del daño sufrido por las víctimas anteriormente mencionadas. El Relator Especial igualmente insiste en las obligaciones estatales respecto de la prohibición absoluta e inderogable tanto de la tortura como de los malos tratos establecidos en la Convención contra la Tortura (CAT), en especial las derivadas del artículo 16 de la CAT, que establece que: "todo Estado Parte se comprometerá a prohibir en cualquier territorio bajo su jurisdicción otros actos que constituyan tratos o penas crueles, inhumanos o degradantes y que no lleguen a ser tortura tal como se define en el artículo 1."

321. l Relator Especial recuerda al Estado la obligación de que las víctimas de la tortura o de otros tratos o penas crueles, inhumanos o degradantes obtengan reparación y reciban una indemnización justa y adecuada.

322. El Relator Especial exhorta al Gobierno de México a poner en conocimiento de esta Relatoría los resultados de la investigación, la eventual puesta en libertad de las víctimas, las investigaciones realizadas, así como el nuevo dictamen médico-psicológico

especializado que a la fecha de la respuesta a la comunicación no se había realizado a las víctimas. También exhorta al Estado a realizar sus mejores esfuerzos para que las medidas de reparación ordenadas por la CNDH sean efectivas y lleguen a sus destinatarios finales. Además acoge con beneplácito la decisión reciente del Comité Contra la Tortura número 500/2012 de fecha 14 de octubre de 2015 en la cual concluyó que el Estado incumplió con sus obligaciones respecto de la prohibición de la tortura y reiteramos las conclusiones de este Comité sobre las violaciones a los artículos 1, 2 (párrafo1), 12 al 15 y el 22 de la CAT.

(d) AL 27/11/2014 Case No MEX 24/2014 State Reply: 03/02/2015 **Alegatos de actos de tortura cometidos en contra de los Sres. Fredy Sánchez Sánchez, José Manuel Cundafé Córdova, Luis Manuel Leyva Aguilera, Jesús Alma Cundafé, Ignacio Reyes García, Daniel Olán Ramos, Reynaldo Jiménez y la posterior muerte del Sr. Mateo Jacinto.**

323. El Relator Especial agradece al Gobierno de México por su respuesta a la comunicación de fecha 27 de noviembre de 2014, que hacía referencia a las alegaciones de tortura en contra de los Sres. Fredy Sánchez Sánchez, José Manuel Cundafé Córdova, Luis Manuel Leyva Aguilera, Jesús Alma Cundafé, Ignacio Reyes García, Daniel Olán Ramos, Reynaldo Jiménez y la muerte como consecuencia de tortura del Sr. Mateo Jacinto.

324. El Relator Especial aprecia el esfuerzo del Gobierno en responder a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial sobre las alegaciones presentadas. Sin embargo el Relator Especial lamenta la ausencia de un avance en la investigación.

325. El Relator Especial exhorta al Gobierno de México, como Estado miembro de la Convención contra la Tortura, a llevar a cabo la investigación, procesamiento y eventual condena de los responsables, así como la compensación a las víctimas anteriormente mencionadas. El Relator Especial recuerda que las obligaciones estatales son absolutas respecto de la prohibición inderogable de la tortura y de los malos tratos establecida en la Convención contra la Tortura (CAT). De conformidad con el artículo 15 de la CAT, ninguna declaración obtenida como resultado de tortura podrá ser invocada como prueba. En este contexto, el Relator Especial recuerda al Gobierno de México su obligación de realizar un proceso justo e imparcial para investigar los acontecimientos y enjuiciar y sancionar a los responsables, de conformidad con los artículos 7 y 12 de la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes. También el párrafo 7 (b) de la Resolución 16/23 del Consejo de Derechos Humanos insta a los Estados a que "adopten medidas constantes, decididas y eficaces para que toda denuncia de torturas o de otros tratos o penas crueles inhumanos o degradantes sea examinada rápida e imparcialmente por la autoridad nacional competente, para que las personas que fomente, ordenen, toleren o cometan actos de tortura sean declaradas responsables y sancionadas severamente, incluidos los funcionarios a cargo del lugar de detención en que haya tenido lugar el acto prohibido [...]."

326. El Relator Especial en contra de la Tortura exhorta al Gobierno de México a poner en conocimiento de esta Relatoría los resultados las investigaciones iniciadas.

(e) AL 27/11/2014 Case No MEX 25/2014 State Reply: 15/05/2015 **Alegatos de actos de tortura cometidos en contra del Señor Luis Ángel Zazueta Cornejo cometidos por personal de la Policía Estatal Preventiva del Estado de Baja California**

327. El Relator Especial agradece al Gobierno de México por su respuesta a la comunicación conjunta con otros procedimientos especiales de fecha 27 de noviembre de 2014. En particular la comunicación hacía referencia a las alegaciones de detención, tortura y malos tratos por personal de la Policía Estatal Preventiva del Estado de Baja California en perjuicio de la persona nombrada.

328. El Relator Especial aprecia el esfuerzo del Gobierno en responder a las inquietudes, obligaciones y preguntas de la comunicación inicial sobre las alegaciones presentadas. Sin embargo el Relator Especial lamenta la ausencia de un avance en la investigación.

329. El Relator Especial exhorta al Gobierno de México, como Estado miembro de la Convención contra la Tortura, a llevar a cabo la investigación, procesamiento y eventual condena de los responsables así como a ofrecer compensación a la víctima anteriormente mencionada. El Relator Especial igualmente quisiera recordarle al Estado sus obligaciones al respecto de la prohibición absoluta e inderogable de la tortura y de los malos tratos establecida en la Convención contra la Tortura (CAT). De conformidad con el artículo 15 de la CAT, ninguna declaración obtenida como resultado de tortura podrá ser invocada como prueba. En este contexto, el Relator Especial recuerda al Gobierno de México su obligación a realizar un proceso justo e imparcial para investigar los acontecimientos y enjuiciar y sancionar a los responsables, de conformidad con el los artículos 7 y 12 de la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes. También se insiste en el párrafo 7 (b) de la Resolución 16/23 del Consejo de Derechos Humanos, el cual insta a los Estados a que "adopten medidas constantes, decididas y eficaces para que toda denuncia de torturas o de otros tratos o penas crueles inhumanos o degradantes sea examinada rápida e imparcialmente por la autoridad nacional competente, para que las personas que fomenten, ordenen, toleren o cometan actos de tortura sean declaradas responsables y sancionadas severamente, incluidos los funcionarios a cargo del lugar de detención en que haya tenido lugar el acto prohibido [...]."

330. El Relator Especial en contra de la Tortura exhorta al Gobierno de México a poner en conocimiento de esta Relatoría los resultados de las investigaciones iniciadas.

(f) JUA 16/12/2014 Case No. MEX 26/2014 State Reply: 30/03/2015 **Declaraciones estigmatizantes y deslegitimadoras por parte de las autoridades del Estado en contra de las organizaciones de derechos humanos y los familiares que acompañan a los 43 estudiantes desaparecidos de la Escuela Normalista**.

331. El Relator Especial agradece al Gobierno de México por su respuesta a la comunicación conjunta con otros procedimientos especiales, de fecha 30 de marzo de 2015, en referencia a los ataques y declaraciones estigmatizantes y deslegitimadoras sufridos por las organizaciones de derechos humanos y los familiares que acompañan a los 43 estudiantes desaparecidos. El Relator Especial da cuenta del esfuerzo del Gobierno en responder a las inquietudes presentadas en la comunicación inicial sobre las alegaciones relativas a las declaraciones realizadas por las autoridades del Estado en contra de las organizaciones de derechos humanos y los familiares que defienden a los 43 estudiantes desaparecidos. El Relator Especial agradece al Gobierno de México por la información sobre las medidas para garantizar la integridad de estas personas, las cuales incluyen la solicitud realizada al Director en Jefe de la Agencia de Investigación Criminal y Presidente del Comité de Protección de Personas, para la realización de un análisis de riesgo con el fin de determinar las personas y organizaciones de derechos humanos que se considera que pudieran estar en situación de riesgo.

332. Sin embargo, el Relator Especial insta al Gobierno a garantizar de forma efectiva la integridad física de estas personas y a tomar las medidas necesarias para este fin. Asimismo expresa su preocupación por el hecho de que los actos referidos en la comunicación en contra de los defensores de derechos humanos puedan estar siendo utilizados para deslegitimar su labor. . El Relator Especial reitera el artículo 13 de la Convención contra la tortura y otros tratos o penas crueles, inhumanos o degradantes (CAT), el cual señala que todo Estado Parte tomará "medidas para asegurar que quien presente la queja y los testigos estén protegidos contra malos tratos o intimidación como consecuencia de la queja o del testimonio prestado." El Relator Especial en contra de la

Tortura exhorta al Gobierno de México a poner en conocimiento de esta Relatoría los resultados del análisis en cuanto estén disponibles.

(g) JUA 25/02/2015 Case No. MEX 1/2015 State Reply: 29/04/2015 **Alegaciones relativas a la detención arbitraria tortura y restricción del derecho a la defensa del Sr. Sidronio Casarrubias Salgado.**

333. El Relator Especial agradece al Gobierno de México por su respuesta a la comunicación conjunta con otros procedimientos especiales, de fecha 29 de abril de 2015. En particular la comunicación hacía referencia a las alegaciones de detención arbitraria, tortura y restricción del derecho a la defensa del Sr. Sidronio Casarrubias.

334. El Relator Especial aprecia el esfuerzo del Gobierno en responder detalladamente a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial sobre las alegaciones relativas a posibles hechos de tortura en contra del Sr. Casarrubias. Especialmente el Relator Especial quisiera agradecer al Estado la información proporcionada al respecto del inicio de investigaciones sobre los hechos de tortura en contra del Sr. Casarrubias. Sin embargo, la información provista por el Estado da cuenta de investigaciones sobre las denuncias de tortura que se encontraban todavía en trámite al momento de la respuesta estatal. En ellas se habían producido exámenes médicos exclusivamente por personal de la Procuraduría y del establecimiento penitenciario, y no por médicos forenses rodeados de garantías de independencia e imparcialidad y capacitados en la aplicación del Protocolo de Estambul. Se afirma además que el Sr. Casarrubias denunció torturas en su primera aparición ante un juez, aunque no en dos declaraciones ministeriales previas que se le tomaron sobre los delitos que se lo acusa. No se informa sobre las diligencias probatorias que se hayan realizado a partir de la denuncia ante el juez, más allá de afirmar que se encuentran en trámite. Por todo ello, el Relator Especial estima que la denuncia originalmente recibida es creíble en el sentido de que el Estado es responsable de una presunta violación del derecho del imputado a la integridad física y mental.

335. El Relator Especial quisiera recordarle al Estado la prohibición absoluta e inderogable de la tortura y de los malos tratos establecida en la Convención contra la Tortura (CAT). Así también el Estado se encuentra obligado a realizar un juicio justo e imparcial para investigar los acontecimientos y enjuiciar y sancionar a los responsables, de conformidad con el los artículos 7 y 12 de la CAT. Finalmente quisiéramos recordar al Estado que de conformidad con el artículo 15 de la CAT ninguna declaración obtenida como resultado de tortura podrá ser invocada como prueba. El Relator Especial espera recibir del Gobierno mexicano información actualizada sobre las investigaciones en curso relacionadas con la tortura presuntamente sufrida por el Sr. Casarrubias.

(h) JUA 04/03/2015 Case No. MEX 2/2015 State Reply: 08/04/2015 **Alegaciones relativas a la detención y alegaciones de malos tratos y tortura en detención y falta de garantías procesales del Sr. Pedro Celestino Canché Herrera, por su actividad de periodista y activista social, así como alegaciones sobre el uso excesivo de la fuerza en el marco de protestas pacíficas en relación con el aumento del precio del agua**

336. El Relator Especial agradece al Gobierno de México por su respuesta a la comunicación conjunta con otros procedimientos especiales, de fecha 8 de abril de 2015. En particular la comunicación hacía referencia a las alegaciones de malos tratos y tortura durante la detención y falta de garantías procesales del Sr. Pedro Celestino Canché Herrera, por su actividad de periodista y activista social, así como alegaciones sobre el uso excesivo de la fuerza en el marco de protestas pacíficas en relación con el aumento del precio del agua.

337. El Relator Especial aprecia el esfuerzo del Gobierno en responder detalladamente a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial, en

particular agradece las investigaciones iniciadas por la Procuraduría General de Justicia del Estado de Quintana Roo. Así como también aprecia las acciones de la Comisión Nacional de los Derechos Humanos de solicitar medidas cautelares a favor der Sr. Pedro Canché Herrera y de acordar tanto su cambio de dormitorio para proteger su integridad personal como el traslado a un Hospital en la ciudad para brindarle atención médica.

338. El Relator Especial ha tenido conocimiento en la elaboración de este informe de la decisión del Segundo Tribunal Colegiado del Vigésimo Circuito que resolvió otorgarle la libertad inmediata a Canché Herrera. El Relator Especial de las Naciones Unidas acoge con beneplácito estas noticias e insta al Gobierno a asegurar la continuidad y eficiencia de las medidas que aseguren la integridad del Sr. Canché Herrera.

339. El Relator Especial en contra de la Tortura igualmente quisiera recordarle al Estado sus obligaciones al respecto de la prohibición absoluta e inderogable de la tortura y de los malos tratos establecida en la Convención contra la Tortura (CAT). También del artículo 27 de Reglas mínimas de las Naciones Unidas para el Tratamiento de los Reclusos (Reglas Mandela) la cual establece que aquellas personas enfermas que requieran tratamientos de salud en centros penitenciarios deberán ser trasladadas a hospitales civiles o servicios internos del centro penitenciario si hubiese. Además del artículo 12 de la Convención contra la tortura y otros tratos o penas crueles, inhumanos o degradantes (CAT), que requiere que todo Estado Parte vele por que, siempre que haya motivos razonables para creer que dentro de su jurisdicción se ha cometido un acto de tortura, las autoridades competentes procedan a una investigación pronta e imparcial, y el artículo 7 del CAT, que requiere que todo Estado Parte enjuicie a los presuntos autores de actos de la tortura.

(i) JUA 13/03/2015 Case No. MEX 3/2015 State Reply: 15/05/2015. 15/05/2015. 15/05/2015
Alegaciones relativas a la detención de la Sra. Nestora Salgado García nacional de los Estados Unidos de América y de los Estados Unidos Mexicanos, defensora de los derechos humanos y líder de una comunidad indígena.

340. El Relator Especial agradece al Gobierno de México por su respuesta a la comunicación conjunta con otros procedimientos especiales, de fecha 15 de mayo de 2015. En particular la comunicación hacía referencia a las alegaciones de la privación arbitraria de libertad de la Sra. Nestora Salgado García, las condiciones de detención y el régimen de aislamiento solitario en que se encuentra; así como la falta de acceso a atención médica y agua potable. El Relator Especial aprecia el esfuerzo del Gobierno en responder detalladamente a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial, en particular la información relativa a la apertura de un procedimiento por parte de la Comisión Nacional de Derechos Humanos (CNDH) además de las diligencias tendientes a otorgar un traslado a otro centro penitenciario y brindarle un tratamiento médico integral a la Sra. Nestora Salgado García coordinado por la Oficinas de la Unidad de la Defensa de los Derechos Humanos y los buenos oficios por parte de la Comisión Ejecutiva de Atención a Víctimas con el fin de mejorar las condiciones de detención de la Sra. Nestora Salgado García. La copiosa documentación que acompaña a la respuesta del Gobierno se refiere a las diversas gestiones para proveer a la detenida del tratamiento médico requerido por su estado de salud; no se refiere, en cambio, al presunto aislamiento al que se la haya sometido ni a su duración o demás circunstancias.

341. El Relator Especial quisiera recordar su Informe Provisional trasmitido a la Asamblea General en fecha 5 de Agosto de 2011 (A/66/268) en que definió el régimen de aislamiento de conformidad con la Declaración de Estambul sobre el empleo y los efectos de la reclusión en régimen de aislamiento. Tal documento define al confinamiento solitario como el aislamiento físico de una persona en su celda, de 22 a 24 horas al día. El Relator observó que mientras el uso del régimen de aislamiento por cortos periodos de tiempo podría ser justificado en ciertas circunstancias, con las garantías adecuadas y efectivas, el uso prolongado o indefinido del régimen de aislamiento nunca puede constituir un

instrumento legítimo del Estado. Este régimen causa dolor o sufrimiento mental y físico, un aspecto que ha sido reiterado en el párrafo 28 de la Resolución 68/156 de la Asamblea General, y entra en colisión con la prohibición absoluta de la tortura y los otros tratos o penas crueles, inhumanos o degradantes.

342. Además, como consecuencia de la falta de comunicación del detenido, así como la falta de testigos dentro de la prisión, el uso del régimen de aislamiento puede dar lugar a otros actos de tortura o malos tratos. El Relator igualmente quisiera recordarle al Estado el párrafo 6 de la Observación General N° 20 del Comité de Derechos Humanos, que establece que el confinamiento solitario prolongado de la persona detenida o presa puede equivaler a actos prohibidos por el artículo 7 del Pacto Internacional de Derechos Civiles y Políticos (PIDCP) y el artículo 7 de los Principios Básicos para el Tratamiento de los Reclusos, que establece que se tratará de abolir o restringir el uso del aislamiento en celda de castigo como sanción disciplinaria y se alentará su abolición o restricción. Además del artículo 12 de la Convención contra la tortura y otros tratos o penas crueles, inhumanos o degradantes (CAT), que requiere que todo Estado Parte vele por que, siempre que haya motivos razonables para creer que dentro de su jurisdicción se ha cometido un acto de tortura, las autoridades competentes procedan a una investigación pronta e imparcial, y el artículo 7 del CAT, que requiere que todo Estado Parte enjuicie a los presuntos autores de actos de la tortura.

343. El Relator Especial exhorta al Gobierno de México a dar a conocer los avances al respecto de este caso, en especial sobre aquellos procesos que se encuentra en trámite e invita al Estado a continuar todas las diligencias tendientes a investigar, prevenir y sancionar violaciones de la prohibición de tortura y otros malos tratos.

(j) JUA 10/07/2015 Case No. MEX 6/2015 State reply: 28/10/2015 **Alegaciones relatives a las detenciones ilegales, torturas y otros tratos crueles, inhumanos o degradantes a la señora Verónica Bahena Cruz, y a los señores Santiago Manzón Cedillo, Héctor Aguilar Avalos, Alejandro Lara García, Edgar Magdaleno Navarro Cruz, Jesús Parra Arroyo, Marco Antonio Ríos Berber, Raúl Núñez Salgado, Agustín García Reyes, Jonathan Osorio Cortez, Patricio Reyes Landa y Carlos Canto Salgado, en los Municipios de Iguala y Cocula.**

344. El Relator Especial toma nota de la información proporcionada por el Gobierno de México al respecto de las denuncias sobre detenciones ilegales, torturas y otros malos tratos en su respuesta con fecha de 28 de octubre de 2015. Sin embargo, a pesar de esta respuesta, la misma carece de información suficiente al respecto de los esfuerzos que haya encarado el Gobierno para investigar, procesar y condenar a los responsables.

345. En particular, el Relator expresa su preocupación respecto de las presuntas detenciones ilegales y otras vejaciones, tales como golpes en múltiples partes del cuerpo, amenazas de muerte contra su persona o sus familias, el uso de electricidad y, asimismo, de asfixia de las cuales han sido víctimas los señores Santiago Manzón Cedillo, Héctor Aguilar Avalos, y Alejandro Lara García, y la señora Verónica Bahena Cruz.

346. Por otra parte, el Relator Especial expresa su preocupación respecto de las presuntas detenciones ilegales y otras vejaciones, tales como golpes en múltiples partes del cuerpo, amenazas de muerte contra su persona o sus familias, entre otras acciones contrarias a la dignidad de las personas, como de igual manera el uso de amenazas para la obtención de confesiones y sin haber dado cumplimiento a las condiciones procesales de la detención, como la oportuna puesta de los detenidos a disposición de un juez, ejercidas contra los señores Carlos Canto Salgado, Jesús Parra Arroyo, Edgar Magdaleno Navarro Cruz, Jonathan Osorio Cortez, Patricio Reyes Landa, Agustín García Reyes, Raúl Núñez Salgado y Marco Antonio Ríos Berber.

347. El Relator Especial condena las detenciones de la señora Verónica Bahena Cruz, y de los señores Santiago Manzón Cedillo, Héctor Aguilar Avalos, Alejandro Lara García, Edgar Magdaleno Navarro Cruz, Jesús Parra Arroyo, Marco Antonio Ríos Berber, Raúl Núñez Salgado, Agustín García Reyes, Jonathan Osorio Cortez, Patricio Reyes Landa y Carlos Canto Salgado, y concluye que el Gobierno de México violó el derecho de la señora Verónica Bahena Cruz, y de los señores Manzón Cedillo, Aguilar Avalos, Lara García, Navarro Cruz, Parra Arroyo, Ríos Berber, Núñez Salgado, García Reyes, Osorio Cortez, Reyes Landa y Canto Salgado a estar libres de tortura y de otros tratos crueles, inhumanos y degradantes, de conformidad con los artículos 1, 2 y 16 de la Convención contra la Tortura y el artículo 7 del Pacto Internacional de Derechos Civiles y Políticos.

348. El Relator Especial hace un llamado al Gobierno de México para reconsiderar las condiciones de detención y privación de libertad, y abolir estas prácticas. El Relator Especial exhorta al Gobierno de México a dar a conocer los avances al respecto de estos casos, y reitera su llamamiento al Gobierno a comenzar con la investigación, procesamiento y eventual condena de las personas culpables y ofrecer reparaciones a las víctimas.

(k) JAL 17/08/2015 Case No. MEX 8/2015 State Reply: None to date **Alegaciones de actos de tortura y violencia sexual sobre la Sra. X y la Sra. Y por algunos soldados del ejército mexicano.**

349. El Relator Especial lamenta que, hasta la fecha, el Gobierno de México no haya respondido a la presente comunicación, y por ello, considera que no ha cumplido con su deber de cooperar con el mandato establecido por el Consejo de Derechos Humanos en la resolución 25/13.

350. Ante la falta de información que indique lo contrario, el Relator concluye que hay sustancia en las alegaciones presentadas en la comunicación inicial, reiteradas arriba, y por lo tanto, que el Gobierno de México no ha resguardado la integridad física y psicológica ni la seguridad personal de la Sra. X quien ha sido víctima de violación y golpizas por parte de efectivos del ejército federal. Ante la falta de avance significativo sobre las denuncias realizadas por la víctima sobre los actos de tortura y las deficientes medidas de protección establecidas por el Gobierno, este último ha violado el derecho de la Sra. X a no ser torturada ni sometida a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 del CAT. Asimismo, el Relator Especial considera que el Gobierno no ha cumplido con la obligación emanada de la norma consuetudinaria internacional de investigar, juzgar y sancionar todos los actos de tortura y los tratos crueles, inhumanos o degradantes, como establece, inter alia, la Convención contra la Tortura (CAT).

(l) JAL 20/10/2015 Case No. MEX 12/2015 State Reply: 27/01/2016 **Alegaciones de tortura cometida por agentes de la autoridad a la cual fue presuntamente sometida la Sra. Yecenia Armenta Graciano**

351. El Relator Especial agradece al Gobierno de México por su respuesta a la comunicación conjunta con otros procedimientos especiales, de fecha 27 de enero de 2016. En particular la comunicación expresaba preocupación al respecto de las denuncias de tortura y maltrato en custodia policial en contra de la Sra. Yecenia Armenta Graciano.

352. El Relator Especial aprecia el esfuerzo del Gobierno en responder detalladamente a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial sobre los alegatos de tortura en contra de la Sra. Yecenia Armenta Graciano. El Relator Especial toma nota de la recomendación 1/2015 realizada por la Comisión Nacional de Derechos Humanos, así como también la apertura de una investigación para determinar si la conducta de las personas que participaron en la detención de la Sra. Yecenia merece algún tipo de sanción. Esta investigación se encuentra todavía en etapa de investigación.

353. El Relator Especial exhorta al Gobierno de México a dar a conocer los resultados de la investigación que se encuentra en trámite y en el caso que se requiera, confirmar la sanción que ésta corresponda. También quisiera recordarle al Estado la obligación de que las víctimas de la tortura o de otros tratos o penas crueles, inhumanos o degradantes obtengan reparación y reciban una indemnización justa y adecuada.

Morocco

(a) JAL 03/06/15 Case No. MAR 3/2015 State Reply: None to date **Allégations de torture, incluant le refus à M. Abou Elkassim Britel au droit à une enquête impartiale et à une réparation adéquate, effective et rapide**

354. Le Rapporteur spécial regrette qu'au moment de la finalisation du rapport, il n'y ait eu encore aucune réponse du gouvernement du Maroc à la communication envoyée le 3 juin 2015 quant à des allégations portant sur les actes de torture et de mauvais traitement s ayant été commis à l'encontre de M. Abou Elkassim Britel, un citoyen maroco-italien.

355. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus. En échouant à prendre des mesures afin d'assurer l'intégrité physique et psychologique de M. Britel et de diligenter une enquête sur les violations perpétrées et de traduire les responsables en justice, le Maroc a failli à se conformer à l'interdiction absolue de tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

356. Dans ce contexte, le Rapporteur spécial exhorte le gouvernement du Maroc à enquêter et à poursuivre et punir les responsables de ces violations, et veiller à ce que la victime et sa famille obtiennent réparation, y compris une indemnisation équitable et adéquate, et une réhabilitation aussi complète que possible.

(b) JUA 03/08/2015 Case No. MAR 6/2015 State Reply : None to date **Allégations d'actes d'intimidation, de harcèlement et de violences physiques contre des defenseurs de droits de l'homme ainsi que des autres individus exerçant leur droit à la liberté d'association et de réunion pacifique et à la liberté d'expression au Sahara occidental, en particulier M. Mohamed Lamin Haidala, M. Abdallahi Toubali et M. X.**

357. Le Rapporteur spécial regrette que le gouvernement du Maroc n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13.

358. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus. En échouant à prendre des mesures suites aux plaintes déposées par la famille de M. Mohamed Lamin Haidala et par M. X, ainsi qu'en soumettant des des defendeurs de droits de l'hommes et des individus exerçant leur droit à la liberté d'association et de réunion pacifique et à la liberté d'expression au Sahara occidental a des violences policières excessives, le Maroc a failli à se conformer à l'interdiction absolue de tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

(c) JUA 04/11/2015 Case No. MAR 7/2015 State Reply: 04/12/2015 **Allégations de torture et autres mauvais traitements concernant M. Ali Aarrass et relatives à l'absence ou au retard disproportionné des enquêtes sur ces allégations et aux poursuites engagées à l'encontre de leurs auteurs.**

359. Le Rapporteur spécial remercie le gouvernement du Maroc pour sa réponse à la présente communication. Le Rapporteur accueille avec intérêt les résultats du rapport détaillé de l'enquête médicale ordonnée sur le fondement des allégations de torture et de mauvais traitement susmentionnés sur la personne de M. Ali Aarras.

360. Le Rapporteur spécial prend note de l'information selon laquelle M. Ali Aarras a rapporté avoir subi des formes multiples et répétées de torture durant sa période de garde à vue, ayant été selon lui l'origine de symptômes aigues physiques et psychiques. Le Rapporteur spécial prend également note du fait que ces symptômes sont difficilement vérifiables et ne sont pas spécifiques aux méthodes de torture alléguées. En outre, le Rapporteur a pris connaissance des recommandations des experts médicaux de se documenter sur une éventuelle intervention médicale ayant eu lieu durant la période de garde à vue, une éventuelle prise de photo du plaignant à son arrivée dans l'établissement pénitencier, ainsi que des conditions ayant mené à la prescription d'anti-inflammatoires dix jours près l'admission de M. Ali Aarras en milieu carcéral.

361. Le Rapporteur spécial voudrait obtenir davantage d'information sur ces examens médicaux afin de savoir s'ils ont été menés de manière impartiale et indépendante et conformément aux standards internationaux établis dans le Protocole d'Istanbul pour la détection de la torture. De plus, le Rapporteur spécial demande au Gouvernement du Maroc de lui fournir les informations actualisées sur l'enquête recommandée par le cortège médical, en application de l'article 12 de la Convention contre la torture obligeant les autorités compétentes de diligenter une enquête rapide et impartiale quand il y a des motifs raisonnables de croire que la torture a été commise. En l'absence d'informations convaincantes prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus, et donc, que le gouvernement du Maroc, en échouant à apporter le suivi approprié aux allégations de torture, a violé son obligation d'entreprendre une enquête rapide et impartiale quand il y a des motifs raisonnables de croire que la torture a été commis ainsi que de poursuivre les auteurs presumees, , comme prévu dans les articles 7 et 12 de la CCT.

Myanmar

(a) JAL 05/02/2015 Case No. MMR 1/2015 State Reply: None to date **Allegations concerning the physical abuse, rape, and murder of Ms. Maran Lu Ra and Ms. Tangbau Hkwan Nana Tsin**

362. The Special Rapporteur regrets that the Government of Myanmar has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular the letter expressed grave concerns regarding alleged cases of rape, torture and summary executions and other crimes of sexual violence by members of the armed forces.

363. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of Myanmar, by failing to prevent the death or to protect the physical and psychological integrity of Ms. Maran Lu Ra and Ms. Tangbau Hkwan Nana Tsin, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the Convention against Torture (CAT) and has failed to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the CAT.

364. The State is urged to conduct a fair and impartial and independent investigation into the incidents and to hold those responsible accountable.

(b) JUA 3/11/2015 Case No: MMR 10/2015 State Reply: None to date **Allegations concerning the enforced disappearance of two human rights defenders, Mr. Tang Zhishun and Xing Qingxian; and the house arrest of the 16 year old son of a detained human rights defender**

365. The Special Rapporteur regrets that the Government of Myanmar has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council Resolution 25/13.

366. The Special Rapporteur would like to remind the State that prolonged incommunicado detention can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment as stated in the paragraph 27 of General Assembly Resolution 68/156. He urges the Government of to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

367. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of Myanmar, by failing to protect the physical and psychological integrity of Mr. Tang Zhishun and Xing Qingxian, including by subjecting them to enforced disappearance and prolonged incommunicado detention, has violated their right to be free from torture and cruel, inhuman or degrading treatment as codified in the articles 1 and 16 of the CAT.

Nauru (Republic of)

(a) JAL 12/11/2015 Case No. NRU 2/2015 State Reply: None to date **Allegations concerning undue restrictions, harassment, and reprisals against asylum seekers defending their rights and the rights of other detained asylum seekers from within the detention facilities; as well as against human rights defenders and journalists who are documenting and reporting on the conditions of detention and ill-treatment in these centres, which may amount to torture.**

368. The Special Rapporteur regrets that the Government of Nauru has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

369. In his interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156. Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

370. Furthermore, due to the detainee's lack of communication, as well as the lack of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

371. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link

above, and that the Government of Nauru, by failing to protect the physical and psychological integrity of human rights defenders at immigration detention facilities in Nauru, including failing to prevent ill-treatment, incommunicado detention in solitary confinement and restriction on the access to food, medical care, water and sanitation, has violated the rights of the human rights defenders to be free from torture and other forms of cruel, inhuman and degrading treatment, as provided by articles 2 and 16 of the CAT and has failed to comply with its obligation to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as provided in articles 7 and 12 of the CAT.

(b) JUA 16/11/2015 Case No: NRU 3/2015 State Reply: None to date **Allegations concerning sexual violence against Ms. Nazanin Bagheri and ill-treatment faced by her and her brother Mr. Omid Bagheri Jebeli, in the context of their detention in the Australian Regional Processing Centre in Nauru and their interaction with the Nauru National Police force.**

372. The Special Rapporteur regrets that the Government of the Republic of Nauru has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council Resolution 25/13.

373. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of the Republic of Nauru, by failing to protect the physical and psychological integrity of Ms. Nazanin Bagheri and of Mr. Omid Bagheri Jebeli, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided for, *inter alia*, Article 1, Article 2 and Article 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).

Nepal

JAL 20/08/2015 Case No. NPL 2/2015 State Reply: None to date **Allegations concerning alleged use of force by the police to disperse a peaceful protest in Kathmandu, and serious injuries sustained by several protesters, including human rights defenders Ms. Kamala Hemchuri, Ms. Durga Sob, and Mr. Ganesh B.K.**

374. The Special Rapporteur regrets that the Government of Nepal has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

375. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and that the Government of Nepal, by applying excessive use of force in dispersing a protest and thereby injuring several individuals, including Ms. Kamala Hemchuri, Ms. Durga Sob, and Mr. Ganesh B.K., and by failing to provide any additional information or details of the investigation into the allegations, has violated the rights of the above named individuals to be free from cruel, inhuman and degrading treatment, as provided by article16 of the CAT and has failed to comply with its obligation to investigate, prosecute and punish such acts, as provided in articles 7 and 12 of the CAT.

Nicaragua

(a) JAL 16/12/2014 Case No. NIC 3/2014 State Reply: None to date **Ausencia de una investigación adecuada sobre el presunto homicidio del Sr. Lubi Jesús Perez Oporta durante su detención en las celdas policiales del Distrito seis de Managua, Nicaragua**.

376. El Relator Especial lamenta que el Gobierno de Nicaragua no haya respondido a la comunicación, de fecha 16 de diciembre de 2014, y por ello, considera que existe una falta de cooperación con el mandato realizado por el Consejo de Derechos Humanos en su resolución 25/13.

377. La comunicación expresaba preocupación por la falta de una investigación adecuada respecto del homicidio del Sr Lubi Jesús Pérez Oporta durante su detención en las celdas policiales del Distrito seis de Managua, Nicaragua, así como por la falta de identificación, enjuiciamiento y sanción a los responsables. El Estado se encuentra obligado a realizar una investigación imparcial e independiente de los acontecimientos y enjuiciar y sancionar a los responsables, de conformidad con los artículos 7 y 12 de la Convención contra la Tortura (CAT).

378. El Relator lamenta que no se haga referencia a la iniciación de acciones judiciales o investigaciones correspondientes a los hechos alegados y exhorta al Gobierno de Nicaragua, a cumplir con sus obligaciones como Estado miembro de la CAT, a que lleve a cabo la investigación, procesamiento y eventual condena de los responsables así como la compensación de la víctima anteriormente mencionada. En ausencia de tales acciones, el Relator Especial concluye que el Estado de Nicaragua ha violado el derecho del Sr. Lubi Jesús Pérez Oporta a su integridad física y moral y a la vida.

(b) JUA 23/03/2015 Case No. NIC 2/2015 State Reply: None to date **Asesinato del Sr. Modesto Duarte Altamirano, campesino de 62 años, así como actos de intimidación, incluyendo amenazas y malos tratos al Sr. Jadier Duarte Peralta, en la Comunidad El Portal, jurisdicción de Jinotega**

379. El Relator Especial lamenta que el Gobierno de Nicaragua no haya respondido a la comunicación conjunta con otros procedimientos especiales, de fecha 23 de marzo de 2015. En particular la comunicación hacía referencia a las alegaciones de asesinato del Sr. Modesto Duarte Altamirano, campesino de 62 años, así como actos de intimidación, incluyendo amenazas y malos tratos al Sr. Jadier Duarte Peralta, en la Comunidad El Portal, jurisdicción de Jinotega.

380. Ante la ausencia de información que contradiga lo argumentado, el Relator Especial concluye que hay fundamentos suficientes en los argumentos presentados, disponibles en el enlace señalado anteriormente, para señalar que el Gobierno de Nicaragua no ha cumplido con sus obligaciones de proteger la integridad física y psicológica del Sr. Modesto Duarte Altamirano y del Sr. Jadier Duarte Peralta, al someterlos a torturas y malos tratos, violando sus derechos a la integridad física y mental, previstos en los artículo 1 y 16 de la Convención contra la tortura y otros tratos o penas crueles (CAT).

381. El Relator Especial reitera su llamamiento al Gobierno a comenzar con la investigación, procesamiento y eventual condena de personas culpables.

Norway

JUA 4/04/2013 Case No. NOR 1/2013 State Replies: 30/04/2014 and 18/05/2015 **Allegation concerning non-refoulement in the case of asylum seeker and human rights defender Mr. Mohammad Anwar Baloch.**

382. The Special Rapporteur thanks the Government of Norway for its replies dated 30/04/2014 and 18/05/2015, to the present communication. In the latter, the Government of Norway informed that the application for asylum by Mr Mohammad Anwar Baloch had been reconsidered by the Norwegian Immigration Appeals Board and that the Government of Norway granted him permanent residence. The Special Rapporteur welcomes this development and considers that the Government of Norway has complied with its obligation under international law, article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, acceded to by Norway on 9 July 1986.

Oman

JUA 16/12/2014 Case No. OMN 5/2014 State reply: 20/02/2015 **Allegation concerning the arrest, enforced disappearance, and incommunicado detention of human rights defender Mr. Said Ali Said Jadad as an alleged act of reprisal for cooperation with the Special Rapporteur on the rights to freedom of peaceful assembly and of association, during his country visit to Oman**

383. The Special Rapporteur thanks the Government of Oman for its reply, dated 20 February 2015, to the present communication

384. The Rapporteur takes note of the information provided by the Government that Mr. Jadad had been arrested according to applicable Omani law and was, as of the date of the dispatch of the reply, still in detention and would be brought to Court. However, no information was given as to the nature of the charges brought against Mr. Jadad or his place of detention. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

385. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Oman, by maintaining Mr. Jadad's incommunicado detention, has failed to protect his physical and psychological integrity and violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

Pakistan

(a) JAL 23/12/2014 Case No. PAK 15/2014 State Reply: None to date **Allegation concerning the arbitrary detention, torture and other cruel, inhuman or degrading treatment or punishment of Messrs. A, B, C, and D by Faisalabad District police officers, as well as a systematic and ongoing pattern of torture and violence by police.**

386. The Special Rapporteur regrets that the Government of Pakistan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

387. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of Pakistan has failed to protect the physical and psychological integrity of Messrs. A, B, C, and D. All four men were subjected to severe forms of torture and ill-treatment at the time of their arrest and during detention, and were forced to make confessions. The Rapporteur also finds that these cases are part of a pattern

of systematic and widespread use of torture in the Faisalabad district. As a result, he finds that Pakistan has violated the right of these and other citizens to be free from torture or other cruel, inhuman or degrading treatment or punishment, as provided by articles 1 and 16 of the CAT.

(b) JUA 19/12/2014 Case No. PAK 16/2014 State Reply: 02/01/2015 **Allegation concerning the removal of the moratorium on the death penalty for terrorism related cases.**

388. The Special Rapporteur thanks the Government of Pakistan for its reply, dated 2 January 2015, to the present communication.

389. The Rapporteur acknowledges the Government's concern over the 16 December 2014 terrorist attack in Peshawar that took the lives of 132 defenseless school children. Nevertheless, the Rapporteur reiterates his concerns with the Government's overuse of its anti-terrorist laws, where the definition of acts of terrorism remains vague and where more than 800 people charged with terrorism under these vague laws remain at risk of being executed.

390. As observed in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment or punishment (para. 75).

391. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

392. Furthermore, as stated in his 2012-report (A/67/279), the Special Rapporteur calls upon Pakistan to observe rigorously the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights and articles 1 and16 of the Convention against Torture. He calls upon retentionist States inter alia to ensure that the method of execution employed causes the least possible physical and mental suffering and that it does not violate the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 80(b)); to refrain from carrying out executions in public or in any other degrading manner; to end the practice of secret executions; and to end the practice of executions with little or no prior warning given to condemned prisoners and their families (para. 80 (c)).

(c) JUA19/03/2015 Case No. PAK 2/2015 State Reply: None to date **Allegations concerning situation of Mr. Shafqat Hussain, a juvenile offender, who faced a risk of imminent execution and was subsequently executed.**

393. The Special Rapporteur regrets that the Government of Pakistan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular the letter expressed grave concerns regarding the death penalty to be carried out against Mr. Shafqat Hussain, a juvenile offender.

394. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a

robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

395. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, the execution of Shafqat Hussain already occurred. The Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of Pakistan, by not taking steps to prevent the execution of Mr. Shafqat Hussain has violated his right to be free from torture or cruel, inhuman or degrading treatment.

396. The Special Rapporteur emphasizes that the execution of persons who committed their crimes while they were under 18 years of age is per se a violation of an existing norm of customary international law (para. 64).

397. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; (para. 79 A/67/279). He calls upon the government of Pakistan to observe rigorously the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights, ratified by the State, and articles 1 and 16 of the Convention against Torture.

(d) JAL 03/06/15 Case No. PAK 4/2015 State Reply: 09/06/2015 **Allegations concerning beatings, arbitrary arrest, incommunicado detention, and extraordinary rendition of Mr. Abou Elkassim Britel.**

398. The Special Rapport thanks the Government of Pakistan for its reply, dated 9 June 2015, to the present communication.

399. The Special Rapporteur appreciates the Government's indication that it has conveyed the communication to relevant domestic authorities in order to obtain factual details about the case. Nevertheless, the Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication. In particular, the reply fails to indicate whether any investigation has taken place with regard to the allegations of arbitrary arrest, beatings, incommunicado detention, and the extraordinary rendition of Mr. Elkassim Britel, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

400. In the absence of convincing information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and, thus, that the Government of Pakistan, by failing to protect Mr. Abou Elkassim Britel's physical and psychological integrity, and by further failing to investigate, prosecute and punish those responsible, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as codified, *inter alia* in articles 1, 2, 7, 12, 13, 14 and 16 of the Convention against Torture (CAT).

401. The Special Rapporteur urges the Government of Pakistan to conduct a fair and impartial investigation into the incidents and to prosecute and punish those responsible, and to provide redress to Mr. Elkassim Britel.

(e) JUA 24/07/2015 Case No. PAK 5/2015 State Reply: None to Date **Allegations concerning the situation of Mr. Abdul Basit, a Pakistani national with a disability, who is reportedly at risk of imminent execution in Pakistan.**

402. The Special Rapporteur regrets that the Government of the Pakistan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

403. As observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty when imposed or executed under circumstances that violate such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

404. The Special Rapporteur recalls that the execution of persons who are mentally disabled is per se a violation of an existing norm of customary international law (para. 64).

405. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

406. The Rapporteur strongly condemns the sentence of death imposed on Mr. Abdul Basit and concludes that the Government of Pakistan, in sentencing Mr. Basit, a person suffering from a disability, to death, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the Convention Against Torture and article 7 of the International Covenant on Civil and Political Rights.

407. The Rapporteur strongly urges the State to take all necessary interim measures to ensure the full protection of Mr. Basit against any violation of his human rights, including the commutation of his death penalty. The rapporteur strongly urges the Government of Pakistan to refrain from carrying out death sentences and abolish the practice of executions.

(f) JUA 28/07/2015 Case No. PAK 6/2015 State Reply: None to Date **Allegations concerning the situation of Mr. Khizar Hayat, a Pakistani national with a severe psychosocial disability, who is reportedly at risk of imminent execution in Pakistan, and has spent over 12 years on death row without proper treatment, which has led to a worsening of his condition and made him a target for abuse and attacks by fellow inmates.**

408. The Special Rapporteur regrets that the Government of the Pakistan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

409. As observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty when imposed or executed under circumstances that violate such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is

actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

410. The Special Rapporteur recalls that the execution of persons who are mentally disabled is per se a violation of an existing norm of customary international law (para. 64).

411. As further observed in the Special Rapporteur's 2012 report to the General Assembly (A/67/279), conditions on death row are often worse than those of the rest of the prison population and often include lengthy and anxiety-ridden wait for uncertain outcomes, isolation, drastically reduced human contact and even sometimes worse physical detention conditions which can produce several mental trauma and physical deterioration in prisoners ("death row phenomenon") (para. 42).

412. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

413. The Rapporteur strongly condemns the sentence of death imposed on Mr. Hayat and concludes that the Government of Pakistan, in sentencing a person suffering from a severe psychosocial disability to death,, and failing to protect his physical and psychological integrity, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the Convention Against Torture and article 7 of the International Covenant on Civil and Political Rights.

414. The Rapporteur calls on the Government to take all necessary interim measures to ensure the full protection of Mr. Hayat against any violation of his human rights, including the commutation of his death penalty. The rapporteur strongly urges the Government to refrain from carrying out death sentences and abolish the practice of executions.

(g) JUA 3/08/2015 Case No. PAK 7/2015 State Reply: 05/08/2015 **Allegations concerning the case of Mr. Shafqat Hussain, allegedly a juvenile offender, who was sentenced to death for murder of a child on the basis of a confession obtained through torture, and his execution on 4 August 2015.**

415. The Special Rapporteur thanks the Government of Pakistan for its reply, dated 5 August 2015, to the present communication. The Special Rapporteur regrets to have learned that Mr. Shafqat Hussain was executed on 4 August 2015.

416. The Rapporteur acknowledges the Government's account in response to the allegations, legal obligations, and questions raised in the initial communication. He welcomes the information provided by the Government that it is examining the existing provision of its Criminal Procedure Code and its Penal Code to determine if the scope of death penalty can be narrowed.

417. The Rapporteur takes note of the information provided by the Government with regards to the Inquiry Committee established to consider the case. Nevertheless, the Government's reply fails to inform the Rapporteur about measures taken to determine the absence of witness intimidation and evidence tampering during the investigation, and about the lack of opportunities to present the case in front of a judicial authority. Moreover, the reply does not address the allegations that the Mr. Hussain's confession was obtained under torture.

418. As observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along

with the resulting illegality of the death penalty if imposed or executed under circumstances that violate such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

419. The Special Rapporteur further recalls that the execution of persons who are juveniles is per se a violation of an existing norm of customary international law (para. 64). The Rapporteur calls on the Government of Pakistan to take appropriate measures in order to ascertain that the practice of executions be abolished in the future, in particular in relation to pregnant women, recent mothers, juveniles and people suffering from mental disabilities.

420. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Pakistan, by failing to provide any additional information or details about the investigation into Mr. Hussain's allegations, particularly as regards the extraction of a confession under torture; by sentencing him to death on the basis of such a flawed process; and by not taking steps to prevent his execution, violated the right of Mr. Hussain's right to life and to be free from torture or cruel, inhuman or degrading treatment, as provided by art. 1, 2, 12, 15 and 16 of the CAT, articles 6(2) and 6(4) of the ICCPR, and article 16(5) of the CRC.

421. The Special Rapporteur urges Pakistan to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

(h) JUA 28/09/2015 Case No. PAK 10/2015 State Reply: None to date **Allegations concerning the situation of Mr. Ansar Iqbal, a juvenile offender, who is reportedly at risk of imminent execution in Pakistan**

422. The Special Rapporteur regrets that the Government of Pakistan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

423. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty if imposed or executed under circumstances that violate such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74).

424. The Special Rapporteur emphasizes that the execution of persons who committed their crimes while they were under 18 years of age is per se a violation of an existing norm of customary international law (para. 64).

425. It has come to the attention of the Special Rapporteur, that Mr. Iqbal was executed on 29 September 2015. The Rapporteur strongly condemns the execution and concludes that the Government of Pakistan, by executing Mr. Iqbal, has violated his right to be free from

torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT. The Special Rapporteur expresses grave concern over the fact that a minor was sentenced to death, an action that is in direct contradiction to international human rights law.

426. The Rapporteur calls on the Government of Pakistan to take appropriate measures in order to ascertain that the practice of executions be abolished in the future, including by undertaking a prompt, impartial, and effective investigation of the alleged acts of torture, prosecuting and punishing those responsible for those acts, and providing redress to the victim's family for the execution of Mr. Iqbal.

427. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

Palestine

UA 26/6/2015 Case No. PSE 1/2015 State Reply: None to Date **Allegations concerning the arbitrary arrest, detention, torture and ill-treatment of Mr. X and Mr. Y.**

428. The Special Rapporteur regrets that the Palestinian Authority has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

429. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the authorities in the West Bank, by arbitrarily arresting, detaining, and subjecting Mr. **X** and Mr. **Y** to acts of torture and other ill-treatment, have violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 2, 7, 12, 13, 14(1) and 16 of the Convention against Torture. By failing to provide any additional information about an investigation into the allegations, the West Bank authorities have further failed to comply with their obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture.

Paraguay

(a) JUA 08/05/2015 Case No PRY 1/2015 State Replies: 12/05/2015 and 20/05/2015 **Alegaciones relativas a la situación de X quien fue violada y a quien le habría sido denegado un aborto seguro**

430. El Relator Especial agradece al Gobierno de Paraguay por su respuesta a la comunicación conjunta con otros procedimientos especiales, de fecha 08 de marzo de 2015 la cual versaba sobre la situación de la negación de practicar un aborto a X, niña menor de 10 años cuando presentaba un embarazo riesgoso luego de haber sido presuntamente violada por el padrastro. El Relator Especial aprecia el esfuerzo del Gobierno en responder detalladamente a las inquietudes, obligaciones y preguntas presentadas en la comunicacion inicial. Además acoge con beneplácito la información relativa a los cuidados de salud y psicológicos brindados a X en la etapa del embarazo, así también por la información recibida durante la elaboración de este informe relativa a la liberación de la madre de X aunque los cargos en su contra se mantienen.

431. Sin embargo, reitera que en los casos en que el aborto es el único medio disponible para evitar un peligro contra la vida o la salud de la mujer, su criminalización constituye un impedimento real y considerable al acceso de la mujer al aborto. El Relator Especial sobre la Tortura expresa gran preocupación sobre las consecuencias que conlleva la penalización de dicho servicio de salud sexual y reproductiva. En este contexto, hace referencia a su informe temático (A/HRC/22/53), en el que concluye que la práctica de negar servicios reproductivos cuando el aborto está legalmente disponible incrementa de hecho el número de abortos inseguros, exponiendo a las mujeres a consecuencias graves y duraderas para su salud física y mental, incluyendo el riesgo de muerte y discapacidad. Asimismo, reitera las conclusiones del Comité contra la Tortura, que establecen que las restricciones en el acceso al aborto y prohibiciones absolutas del mismo conculcan la prohibición de la tortura y los malos tratos.

(b) JAL 05/06/2015 Case No. PRY 2/2015 State Reply: None to date **Alegaciones relativas a la situación de X quien fue violada y a quien le habría sido denegado un aborto seguro.**

432. El Relator Especial lamenta que el Gobierno de Paraguay no haya respondido a la comunicación, de fecha 05 de junio de 2015 la cual versaba sobre la situación de la negación de practicar un aborto a X, niña menor de 10 años cuando presentaba un embarazo riesgoso luego de haber sido presuntamente violada por el padrastro, y por ello, considera que existe una falta de cooperación con el mandato realizado por el Consejo de Derechos Humanos en su resolución 25/13.

433. Reitera que en los casos en que el aborto es el único medio disponible para evitar un peligro contra la vida o la salud de la mujer, su criminalización constituye un impedimento real y considerable al acceso de la mujer a la salud reproductiva. El Relator Especial sobre la Tortura expresa gran preocupación sobre las consecuencias que conlleva la penalización de dicho servicio. En este contexto, hace referencia a su informe temático (A/HRC/22/53), en el que concluye que la práctica de negar servicios reproductivos cuando el aborto está legalmente disponible incrementa de hecho el número de abortos inseguros, exponiendo a las mujeres a consecuencias graves y duraderas para su salud física y mental, incluyendo el riesgo de muerte y discapacidad. Asimismo, reitera las conclusiones del Comité contra la Tortura, que establecen que las restricciones en el acceso al aborto y prohibiciones absolutas del mismo conculcan la prohibición de la tortura y los malos tratos.

434. Ante la ausencia de información que contradiga lo argumentado, el Relator Especial concluye que hay fundamentos suficientes en los argumentos presentados, disponibles en el enlace señalado anteriormente, para señalar que el Gobierno de Paraguay falló en sus obligaciones de proteger la integridad física y psicológica de X y ha violado su derecho a no ser sometida a tratos crueles, inhumanos o degradantes como afirma el artículos 16 del CAT.

435. El Relator Especial ha tenido conocimiento en la elaboración de este informe que X dio a luz a una bebé sana en agosto. Continuamos dando seguimiento a la situación de la niña, y por la presente, quedamos a la espera de actualizaciones periódicas por parte de las autoridades competentes, tanto sobre el estado de la niña y las medidas adoptadas para garantizar su integridad física, y mental, como sobre las medidas adoptadas para que una situación similar no se repita en el futuro.

Panama

(a) JUA 21/11/2014 Case No PAN 2/2014 State Replies: 19/01/2015 and 26/02/2015 and 06/03/2015 **Alegactiones relativas a la privación de libertad de naturaleza**

presuntamente arbitraria del Embajador Arthur Porter, y fallas en asegurar el pronto y adecuado tratamiento médico requerido con urgencia

436. El Relator Especial agradece al Gobierno de Panamá por su respuesta a la comunicación conjunta con otros procedimientos especiales de fecha 21 de noviembre de 2014. La comunicación hacía referencia a las alegaciones de privación presuntamente arbitraria de la libertad del Embajador Arthur Porter y la falta de acceso a un adecuado tratamiento médico en atención a su delicado estado de salud.

437. El Relator Especial aprecia el esfuerzo del Gobierno en responder a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial sobre las alegaciones presentadas. En especial acoge con beneplácito el Proyecto denominado: Apoyando la Reforma Penitenciaria en Panamá, con el apoyo de la Oficina de las Naciones Unidas contra la Droga y el Delito. Agradece las medidas tomadas por parte del Departamento de Salud Penitenciaria del Centro Penal La Joya en programar visitas a centros especializados en oncología para el Sr. Arthur Porter.

438. El Relator Especial igualmente quisiera recordarle al Estado las normas establecidas en los Principios Básicos para el Tratamiento de los Reclusos, adoptados y proclamados por la Asamblea General en su resolución 45/111, que establecen que los reclusos tendrán acceso a los servicios de salud de que disponga el país, sin discriminación por su condición jurídica (Principio 9). También se hace referencia al artículo 27 de Reglas Mínimas de las Naciones Unidas para el Tratamiento de los Reclusos (Reglas Mandela), que establece que aquellas personas enfermas que requieran tratamientos de salud en centros penitenciarios deberán ser trasladadas a hospitales civiles o servicios internos del centro penitenciario si hubiese. El Relator llama la atención del Estado al respecto de la información recibida durante la elaboración de este informe que el Sr. Porter murió en Junio del 2015 en un Hospital en Panamá; observamos con preocupación que la muerte del Sr. Porter podría estar vinculada con la privación de los servicios de salud.

(b) JUA 12/08/2015 Case No. PAN 1/2015 State Reply: None to date **Alegaciones relativas a las detenciones ilegales de los señores José Cossio, Carlos Mosquera y Azael Ramos, en la base del Servicio Nacional Aeronaval en la Isla Punta Coco, siendo objeto de asilamiento y otros tratos crueles, inhumanas y degradantes.**

439. El Relator Especial lamenta que el Gobierno de Panamá no haya respondido a la comunicación, de fecha 12 de agosto de 2015, y por ello, considera que existe una falta de cooperación con el mandato conferido por el Consejo de Derechos Humanos en su resolución 25/13.

440. Ante la ausencia de información que contradiga lo argumentado, el Relator Especial concluye que hay fundamentos suficientes en los argumentos presentados, disponibles en el enlace señalado anteriormente, para señalar que el Gobierno de Panamá ha fallado en proveer condiciones adecuadas para la detención de los involucrados. La comunicación expresaba que los prisioneros fueron trasladados a otro centro de detención en contra de su voluntad, bajo condiciones de violencia y sin haber sido debidamente atendidos los requisitos de traslado. No se han dado cumplimiento a las condiciones procesales de la detención, y aún existen recursos pendientes de Habeas Corpus sin que el Relator Especial haya recibido información al respecto. Asimismo, estas personas han sido retenidas en dicho centro en malas condiciones, sin que se les haya suministrado alimento suficiente, servicios higiénicos apropiados y agua para consumo humano, que ha derivado en padecimientos físicos. Han sido mantenidos en aislamiento de otros detenidos y en un lugar que hace sumamente difícil las visitas por parte desus abogados y familiares.

441. El Relator Especial condena las detenciones de los señores Cossio, Mosquera y Ramos, y concluye que el Gobierno de Panamá violó sus derechos a ser libres de tortura, otros tratos crueles inhumanos y degradantes, de conformidad con los artículos 1, 2 y 16 de

la Convención en contra de la Tortura y el artículo 7 del Pacto Internacional de Derechos Civiles y Políticos.

442. El Relator Especial hace un llamado al Gobierno de Panamá para reconsiderar las condiciones de detención y privación de libertad, y abolir estas prácticas.

(c) AL 26/10/2015 Case No. PAN 2/2015 State Reply: None to date **Alegaciones relativas a los Condiciones de los centros penitenciarios en Panamá durante la detención del Sr. Nicholas Tuffney**

443. El Relator Especial lamenta que el Gobierno de Panamá no haya respondido a la comunicación de este Relator de fecha 26 de octubre de 2015, y por ello, considera que existe una falta de cooperación con el mandato instituido por el Consejo de Derechos Humanos en su resolución 25/13. La comunicación expresaba preocupación al respecto de las condiciones durante la detención del Sr. Nicholas Tuffney y el posterior impacto a su integridad física y mental como consecuencia de su detención.

444. Ante la ausencia de información que contradiga lo argumentado, el Relator Especial concluye que hay fundamentos suficientes en los argumentos presentados, disponibles en el enlace señalado anteriormente, para señalar que el Gobierno de Panamá ha incumplido sus obligaciones de proteger la integridad física y psicológica del Sr. Nicholas Tuffney, al someterlo a condiciones dentro de la prisión que constituyeron tratos inhumanos o degradantes, previstos en los artículos 1 y 16 de la Convención contra la tortura (CAT).

445. El Relator Especial exhorta al Gobierno de Panamá a dar a conocer los avances al respecto de este caso, y reitera su llamamiento al Gobierno a comenzar con la investigación, procesamiento, eventual condena de personas culpables y a ofrecer reparaciones a la víctima.

Papua New Guinea

JAL 12/11/2015 Case No. PNG 1/2015 State Reply: None to date **Allegations concerning undue restrictions, harassment, and reprisals against asylum seekers defending their rights and the rights of other detained asylum seekers, from within the detention facilities; as well as against human rights defenders and journalists who are documenting and reporting on the conditions of detention and ill-treatment in these centres, which may amount to torture**

446. The Special Rapporteur regrets that the Government of Papua New Guinea has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

447. In the Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156. Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Furthermore, due to the prisoner's lack of communication, as well as the lack

of witnesses inside the prison, solitary confinement may also give rise to other acts of torture or ill-treatment.

448. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and that the Government of Papua New Guinea, by failing to protect the physical and psychological integrity of human rights defenders at immigration detention facilities in Papua New Guinea, including failing to prevent ill-treatment and torture, incommunicado detention in solitary confinement and restriction on the access to food, medical care, water and sanitation, has violated the rights of the human rights defenders to be free from torture and other forms of cruel, inhuman and degrading treatment, as provided by article 7 of the ICCPR.

Philippines

JAL 22/05/2015 Case No. PHL 2/2015 State Reply: None to date **Allegations concerning the continued pre-trial detention and conditions of detention of Mr. Scott McMahon**

449. The Special Rapporteur regrets that the Government of the Philippines has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

450. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and that the Government of the Philippines, by detaining Mr McMahon in deplorable conditions for more than four years and by failing to protect his physical and psychological integrity, has violated his right to be free from torture or cruel, inhuman and or degrading treatment, as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). With regards to the present case, the Special Rapporteur reminds the Government of the Philippines that the Committee against Torture and the Human Rights Committee have consistently found that conditions of detention can amount to cruel, inhuman and degrading treatment and recalls that these practices have been authoritatively deemed to breach a State's obligations under international law, inter alia, in Rules 12 through 18(1) and 22 of the Mandela Rules, as readopted from the United Nations Standard Minimum Rules for Treatment of Prisoners, amended on Nov. 5, 2015 by the General Assembly.

Portugal

JAL 03/06/15 CASE No. PRT 1/2015 State Reply: 05/08/2015 **Allegations concerning complicity in the torture, incommunicado detention, and extraordinary rendition of Mr. Abou Elkassim Britel.**

451. The Special Rapport thanks the Government of Portugal for its reply, dated 5 August, 2015, to the present communication.

452. The Rapporteur takes note of the information provided by the Government of Portugal concerning allegations of complicity in the torture, incommunicado detention, and extraordinary rendition of Mr. Abou Elkassim Britel. He further welcomes the Government's cooperative efforts in this matter. However, notwithstanding its report on the outcome of the Attorney General's investigation, the Government's reply does not provide sufficient information concerning the nature and outcome of this investigation..

453. As observed by the Special Rapporteur in his interim report on extraterritoriality, a State may be found complicit in acts of torture and cruel, inhuman and degrading treatment

and "[e]xamples of assistance triggering State responsibility under article 16 include forms of assistance vital to the practice of extraordinary rendition and secret detention, including unchecked access to ports…"(A/70/303).

454. The Special Rapporteur urges the Government of Portugal to take all steps necessary to ensure that procedures are in place to prevent such incidents from taking place on its territory in the future.

Qatar

JUA 27/03/2015 Case No. QAT 1/2015 State Reply: 21/09/2015 **Allegations concerning torture, ill- treatment, and unfair trial with regard to the arrest, detention, and conviction of Mr. Ronaldo Lopez Ulep.**

455. The Special Rapporteur thanks the Government of Qatar for its reply, dated 21 May 2015, to the present communication.

456. The Rapporteur takes note of the information provided by the Government. However, the reply fails to address the allegation that Mr. Lopez Ulep was subjected to physical and psychological torture and other ill-treatment, that his confession was the result of torture, and that he was placed in prolonged solitary confinement.

457. The Rapporteur hence finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

458. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Qatar, by failing to protect the physical and psychological integrity of Mr. Lopez Ulep, and subjecting him to prolonged solitary confinement has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 2, 15, and 16 of the Convention against Torture.

Russian Federation

JUA 22/12/2014 Case No. RUS 10/2014 State Reply: 13/02/2015 **Allegation concerning an arson attack against the premises of human rights organization, "the Joint Mobile Group," intimidation and harassment of human rights lawyers Mr. Igor Kalyapin, Mr. Sergei Babinets, and Mr. Dmitry Dimitriev, and the arbitrary arrest of Mr. Sergei Babinets and Mr. Dmitry Dimitriev.**

459. The Special Rapporteur thanks the Government of the Russian Federation for its reply, dated 13 February 2015, to the present communication.

460. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations, and questions raised in the initial communication. He welcomes the information provided by the Government of the Russian Federation that the investigation regarding the arson attack against "the Joint Mobile Group," as well as the intimidation, harassment, and arrest of human rights defenders, have been moved from the Grosny Directorate of the Ministry of Internal Affairs of the Russian Federation to the Investigation Directorate of the Investigation Committee of the Russian Federation for the Chechen Republic for further investigation.

461. The Rapporteur reminds the Government that intimidation and coercion, as described in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, including serious and credible threats, as well as death threats, to the physical integrity of the victim or of a third person can amount to cruel, inhuman or degrading treatment or to torture. Furthermore, the Rapporteur would like to draw the Government's attention to paragraph 1 of Human Rights Council Resolution 16/23, which "[c]ondemns all forms of torture and other cruel, inhuman or degrading treatment or punishment, including through intimidation, which are and shall remain prohibited at any time and in any place whatsoever and can thus never be justified." The Rapporteur welcomes the detailed information received and looks forward to the outcome of the investigation.

Saudi Arabia

(a) JUA 22/1/2015 Case No. SAU 1/2015 State Reply: 26/01/2015 **Allegations concerning the situation of Mr. Raef Badawi, a blogger and free speech activist, who was publicly flogged on January 9, 2015 and would continue to receive 50 lashes a week until his sentence of 1,000 lashes is carried out. Mr. Badawi was convicted of apostasy and insulting Islam.**

462. The Special Rapporteur thanks the Government of Saudi Arabia for its reply, dated 1/26/2015, to the present communication.

463. The Rapporteur takes note of the information provided by the Government that Mr. Badawi was tried and convicted by an independent judiciary following Saudi Law. However, the Government of Saudi Arabia does not, in its reply, outline any measures taken to protect the physical and psychological integrity of Mr. Badawi and the Rapporteur hence finds that the Government does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

464. The Rapporteur recalls that any form of corporal punishment constitutes torture or cruel, inhuman or degrading punishment in violation of customary international law, and that the flogging of Mr. Badawi, because of its severity, undoubtedly constitutes torture under the Convention against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT) to which Saudi Arabia acceded on 23 September 1997.

465. The Rapporteur concludes that there is substance in the allegations presented in the initial communication and that the Kingdom of Saudi Arabia, by having carried out Mr. Badawi's corporal punishment and by continuing to do so, has violated Mr. Badawi's right to be free from torture or cruel, inhuman or degrading treatment, as provided for in articles 1 and 16 of the CAT.

(b) JUA 12/06/2015 Case No. SAU 3/2015 State Reply: 17/06/2015 **Allegations concerning the imminent resumption of public flogging of Mr. Raef Badawi, a blogger and free speech activist, after his sentence for apostasy and insulting Islam having been upheld by the Supreme Court.**

466. The Special Rapporteur thanks the Government of Saudi Arabia for its reply, date 17 June 2015, to the present communication.

467. The Special Rapporteur takes note of the information provided by the Government that Mr. Badawi was tried and sentenced by an independent judiciary following Saudi Law. However, the Government of Saudi Arabia does not, in its reply, outline any measures taken to protect the physical and psychological integrity of Mr. Badawi. It has since come

to the attention that Mr. Badawi's sentence was upheld by the Supreme Court on 7 June 2015. The Special Rapporteur hence finds that the Government does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

468. The Special Rapporteur wishes to stress that corporal punishment of any sort, even if judicially imposed, is always torture in violation of articles 1, 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which Saudi Arabia acceded to on 23 September 1997.

469. The Special Rapporteur concludes that there is substance in the allegations presented in the initial communication and that Saudi Arabia, by having carried out Mr. Badawi's corporal punishment, in part, and by failing further to protect Mr. Badawi from enforcement of the Supreme Court ruling upholding his sentence, has violated Mr. Badawi's right to be free from torture or cruel, inhuman or degrading treatment, as provided for in articles 1, 2 and 16 of the CAT, and has failed to provide Mr. Badawi redress for these violations according to article 14 of the CAT. The Special Rapporteur strongly urges the Government to refrain from and abolish the practice of the corporal punishment.

(c) JUA 25/08/2015 Case No: SAU 4/2015 State Reply: None to date **Allegation concerning the risk of imminent execution of seven Pakistani Nationals, Messrs. Mohammad Afzal, Mohammad Irfan, Mohammad Fiaz, Liaquat Ali, Mohammad Imran, Ghulam Shabbir, and Safeer Ahmad in Saudi Arabia.**

470. The Special Rapporteur regrets that the Government of Saudi Arabia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Right Council in its resolution 25/13. In particular the letter expressed grave concerns regarding the use of the death penalty that may be carried out against several prisoners who have been convicted on drug-related charges, which does not meet the threshold of "most serious crimes" that would warrant the death penalty under international law.

471. As observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74).

472. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Saudi Arabia, by seeking to execute the death penalty for offenses that do not reach the threshold of "the most serious crimes" imposing the death penalty of Messrs. Mohammad Afzal, Mohammad Irfan, Mohammad Fiaz, Liaquat Ali, Mohammad Imran, Ghulam Shabbir, and Safeer Ahmad, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided for, inter alia, Articles 2 and 16 of the Convention Against Torture (CAT).

473. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; (para. 79 A/67/279). He calls upon the government of Saudi Arabia to observe rigorously the restrictions and conditions

imposed by article 7 of the International Covenant on Civil and Political Rights and article 1 or article 16 of the Convention against Torture.

(d) JUA 30/09/2015 Case No. SAU 5/2015 State Reply: None to date **Allegations concerning the risk of imminent execution of Mr. Husain Abu al Khair, a Jordanian national sentenced to death for drug trafficking by a Saudi court.**

474. The Special Rapporteur regrets that the Government of Saudi Arabia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular the letter expressed grave concerns regarding the use of the death penalty that may be carried out against Mr. Husain Abu al Khair, who has been convicted for drug trafficking, an offense that does not meet the threshold of "most serious crimes" that would allow the imposition of the death penalty under current international law.

475. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

476. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus that the Government of Saudi Arabia, by seeking to execute the death penalty for offenses that do not reach the threshold of "the most serious crimes" has violated Mr. Husain Abu al Khair right to be free from torture or cruel, inhuman or degrading treatment.

477. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; (para. 79 A/67/279). He reminds the government of Saudi Arabia that international law establishes the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).With regard to sentences imposing the death penalty, the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/67/279) calls upon retentionist States to rigorously observe the restrictions and conditions imposed by articles 1 and 16 of the CAT.

(e) JUA 21/09/2015 Case No. SAU 6/2015 State Reply: 28/12/2015 **Allegations concerning the imminent risk of execution of Ali Mohammed al-Nimr, a Saudi national sentenced to death by the Saudi Specialized Criminal Court (SCC)**

478. The Special Rapporteur thanks the Government of Saudi Arabia for its reply, dated 28 December 2015, to the present communication.

479. He regrets that, as of the drafting of this report, no official translation is available to the Government's reply. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply.

(f) JUA 19/10/2015 Case No. SAU 8/2015 State Reply: None to date **Alleged concerning the torture, use of solitary confinement and imminent execution of juvenile offender Mr. Dawood Hussain Al-Marhoon.**

480. The Special Rapporteur regrets that the Government of Saudi Arabia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular the letter expressed grave concerns regarding the use of solitary confinement and the imminent execution against Mr. Dawood Hussain Al-Marhoon, a juvenile offender.

481. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75). The Special Rapporteur emphasizes that the execution of persons who committed their crimes while they were under 18 years of age is per se a violation of an existing norm of customary international law (para. 64).

482. Regarding the application of solitary confinement, in the Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it causes severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156 – Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. Also, the Special Rapporteur recalls that when used on juveniles (A/66/268), solitary confinement amounts to cruel, inhuman or degrading treatment or punishment or even torture, even if not used indefinitely or for a prolonged period of time.

483. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus that the Government of Saudi Arabia, by seeking to execute the death penalty for offenses that do not reach the threshold of "the most serious crimes", and applying prolonged solitary confinement to a juvenile offender, has violated Mr. Dawood Hussain Al-Marhoon right to be free from torture or cruel, inhuman or degrading treatment.

484. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; (para. 79 A/67/279). He reminds the government of Saudi Arabia that international law establishes the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or

Punishment (CAT), as well as the prohibition of using evidence obtained under torture or ill-treatment, in accordance with article 15 of the CAT. With regard to sentences imposing the death penalty, the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/67/279) calls upon retentionist States to rigorously observe the restrictions and conditions imposed by articles 1 and 16 of the CAT.

(g) JUA 30/11/2015 Case No. SAU 10/2015 State Reply: None to date **Allegations concerning the death sentence issued against the artist and poet Mr. Ashraf Fayadh on 17 November after an allegedly unfair trial, on allegations of having committed apostasy, promoting atheism and having "illicit relationships" with women**

485. The Special Rapporteur regrets that the Government of Saudi Arabia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

486. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74).

487. Furthermore, as stated in his 2012-report (A/67/279), the Special Rapporteur calls upon Saudi Arabia to observe rigorously the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights and article 1 or article 16 of the Convention against Torture. He calls upon retentionist States inter alia to ensure that the method of execution employed causes the least possible physical and mental suffering and that it does not violate the prohibition of torture and cruel, inhuman or degrading treatment (para. 80 (b)), and to end the practice of executions with little or no prior warning given to condemned prisoners and their families (para. 80 (c)).

488. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and that the Government of Saudi Arabia, in sentencing to death Mr. Ashraf Fayadh for offenses that do not reach the threshold of "the most serious crimes" and after an allegedly unfair trial, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the Convention Against Torture and article 7 of the International Covenant on Civil and Political Rights.

489. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty respects the inherent dignity of the human person by means of execution and conditions in death row that cause severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).The rapporteur strongly urges the Government of Saudi Arabia to refrain from carrying out death sentences and abolish the practice of executions.

Singapore

(a) JUA 07/07/2015 Case No. SGP 1/2015 State Reply: 23/12/2015 **Allegations concerning Mr. Roy Ngerng YiLing, a prominent human rights blogger, who was convicted of civil defamation in relation to blog posts critical of the Prime Minister; and that 16-year-old blogger Mr. X was detained, convicted of criminal offences concerning images and a video he posted on the Internet, and was subjected to solitary confinement and other harsh detention conditions amounting to torture.**

490. The Special Rapporteur thanks the Government of Singapore for its reply, dated 23 December 2015, to the present communication. He takes note of the information provided by the Government that the physical assault Mr. **X** suffered was at the hands of a member of the public who was prosecuted for the offence; that Mr. **X** was housed in a cell with an adult for only a few hours; that the lights in his cell were kept on at night to facilitate monitoring of juvenile detainees; that he was restrained in a medical ward for one day due to suicidal ideation; and that while held in the Institute of Mental Health, he was not handcuffed, not kept in solitary confinement, was free to contact his parents, and had daily access to medical services.

491. In spite of the information supplied by the Government, its reply fails to inform the Rapporteur of the results of any investigation into the alleged ill-treatment of Mr. **X**. The Special Rapporteur reminds the government of Singapore of the obligation to conduct a prompt and impartial investigation into whether Mr. **X** suffered torture or ill treatment, as required by customary international law and codified in Article 12 of the Convention Against Torture (CAT). The Special Rapporteur further reminds the Government of its obligations to prevent, investigate and punish all acts of torture and ill treatment under customary international law as codified by Articles 1, 2, and 16 of the Convention Against Torture (CAT).

492. The Special Rapporteur would further like to draw the Government's attention to his interim report to the General Assembly of 5 August 2011 (A/66/268), in which the Rapporteur defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged or indefinite solitary confinement may never constitute a legitimate instrument of the State and it runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment. In addition, solitary confinement even of short duration is absolutely prohibited when applied to children (see A/HRC/28/68).

493. In the absence of an independent investigation concluding the contrary, the Special Rapporteur finds that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Singapore, by failing to protect the physical and psychological integrity of Mr. X, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by customary international law as codified by articles 2 and 16 of the Convention against Torture.

(b) JUA 30/10/2015 Case No. SGP 3/2015 State Reply: None to date **Allegations concerning the imminent execution of Mr. Kho Jabing, a Malaysian national sentenced to death for murder by a Singaporean court**

494. The Special Rapporteur regrets that the Government of Singapore has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

495. As observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which

capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

496. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, the imminent execution of Mr. Kho Jabing has not taken place. The Rapporteur strongly urges the Government of the Singapore to protect the right of Mr. Kho Jabing to be free from torture or cruel, inhuman or degrading treatment, a *jus cogens* and international customary law norm codified, *inter alia*, in Human Rights Council Resolution 25/13 and General Assembly Resolution 68/156.

497. The Special Rapporteur calls upon the State to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79 A/67/279). He calls upon the Government to observe rigorously the restrictions and conditions imposed by article 7 of the International Covenant on Civil and Political Rights and article 1 or article 16 of the Convention against Torture.

Somalia

JUA 16/11/15 Case No. SOM 1/2015 State Reply: None to Date **Allegations concerning the situation of Mr. Abdullahi Ali, a man with a psychosocial disability who is reportedly at risk of imminent execution in the autonomous region of Somaliland, in Somalia**

498. The Special Rapporteur regrets that the authorities in Somaliland have not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

499. As observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty when imposed or executed under circumstances that violate such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

500. The Special Rapporteur further recalls that the execution of persons with psychosocial disabilities is per se a violation of an existing norm of customary international law (para. 64).

501. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

502. The Rapporteur strongly condemns the sentence of death imposed on Mr. Ali and concludes that Somaliland, in sentencing Mr. Ali, a person suffering from a disability, to death, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the Convention Against Torture and article 7 of the International Covenant on Civil and Political Rights.

503. The Rapporteur strongly urges Somaliland to take all necessary interim measures to ensure the full protection of Mr. Ali against any violation of his human rights, including the commutation of his death penalty. He calls on Somaliland to refrain from carrying out death sentences and to abolish the practice of executions.

South Sudan

JUA 24/09/2015 Case No. SSD 3/2015 State Reply: None to date **Allegations concerning the arbitrary detention, torture, and enforced disappearance of human rights journalist Mr. Clement Lochio Lormonana and two other individuals by the South Sudanese security forces.**

504. The Special Rapporteur regrets that the Government of South Sudan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

505. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus that the Government of South Sudan, by arbitrarily detaining and failing to protect the physical and psychological integrity of Mr. Lormonana and two other individuals, and by forcibly disappearing Mr. Lormonana and one other individual, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1, 2, and 16 of the Convention Against Torture. The Special Rapporteur strongly urges the Government of South Sudan to protect the right of Mr. Lormonana and one other individual to be free from torture or cruel, inhuman or degrading treatment, to take all necessary measures to investigate these allegations per Article 12, to undertake an impartial review of their allegations under Article 13, and to refrain from using any confessions gained through torture, per Article 15.

506. The Rapporteur further calls on the Government of South Sudan to undertake a prompt, independent, and effective investigation into the allegations of torture, cruel, inhuman or degrading treatment, and enforced disappearance of Mr. Lormonana and one other individual, leading to the prosecution and punishment of the perpetrators, to provide full redress to the victims, and undertake effective measures to prevent the recurrence of these acts. The Rapporteur expects to be kept fully informed of the outcome of the investigation and proceedings.

Spain

(a) JAL 28/07/2014 Case No. ESP 4/2014 State Reply: 31/03/2015 **Alegaciones relativas al proyecto de "Ley orgánica para la protección de la vida del concebido y los derechos de la mujer embarazada", el cual limitaría el acceso al aborto para las mujeres y niñas en España**

507. El Relator Especial agradece al Gobierno de España por su respuesta – recibida el 31 de marzo de 2015 -- a la comunicación de fecha 28 de julio de 2014. En esa respuesta, el Gobierno informa que el mencionado proyecto de ley ha sido retirado y nunca fue tramitado. El Relator Especial acoge con beneplácito la decisión del Estado español.

508. De igual forma quisiéramos hacer referencia al último informe temático del Relator Especial sobre la tortura (A/HRC/22/53) en el que concluye que la práctica de negar servicios reproductivos cuando el aborto está legalmente disponible incrementa de hecho el número de abortos inseguros, exponiendo a las mujeres a consecuencias graves y duraderas para su salud física y mental, incluyendo el riesgo de muerte y discapacidad. Asimismo,

reitera las conclusiones del Comité contra la Tortura, que establecen que las restricciones en el acceso al aborto y prohibiciones absolutas del mismo conculcan la prohibición de la tortura y los malos tratos.

(b) JAL 25/03/2015 Case No. ESP 6/2015 State Reply: None to date **Alegaciones relativas al Acuerdo del Consejo de Ministros, del 13 de marzo de 2015, sobre la no continuación de procedimientos de extradición pasiva, solicitados por las autoridades argentinas en contra de ciudadanos españoles, por una serie de hechos acontecidos en los años 1970 en España.**

509. El Relator Especial lamenta que el Gobierno de España no haya respondido a la comunicación de fecha 25 de marzo de 2015 y por ello, considera que existe una falta de cooperación con el mandato conferido por el Consejo de Derechos Humanos en su resolución 25/13.

510. En particular esta comunicación hacía referencia a la atención urgente al respecto de la decisión del Consejo de Ministros de fecha 13 de marzo de 2015 denominado "Acuerdo sobre la no continuación de procedimientos de extradición pasiva, solicitados por las autoridades argentinas, contra veinte ciudadanos españoles" que consistió en suspender la orden de detención preventiva con fines de extradición de los imputados solicitada por el Estado de Argentina, por una serie de delitos que incluyen crímenes que podrían constituir violaciones graves de los derechos humanos y crímenes de lesa humanidad cometidas durante el franquismo, en aplicación del principio de jurisdicción universal.

511. El Relator lamenta que no se haga referencia a acciones por parte del Estado de permitir que esta extradición se lleve a cabo. El Relator Especial quisiera recordar la obligación de investigar, juzgar y sancionar violaciones graves de los derechos humanos que se desprende de la Convención contra la Tortura y otros Tratos o Penas Crueles, Inhumanos o Degradantes (ratificada por España el 21 de octubre de 1987) en particular de los artículos 7 y 12 de esta convención. El Relator Especial recuerda al Estado el carácter absoluto de la prohibición de la tortura, norma *ius cogens* que no puede estar sujeta a restricción o prescripción alguna. En ausencia de acciones de apoyo al inicio de investigaciones sobre las violaciones graves de los derechos humanos, el Relator Especial concluye que el Estado no cumplió sus obligaciones internacionales en materia de derechos humanos.

(c) JUA 17/06/2015 Case No. ESP 7/2015State Reply: 02/11/2015 **Alegaciones de malos tratos y tortura como actos de represalia contra el Sr. José Antúnez Becerra y grave deterioro de su estado de salud.**

512. El Relator Especial agradece al Gobierno de España por su respuesta a la comunicación conjunta con otro procedimiento especial, de fecha 2 de noviembre de 2015, la cual versaba sobre la denuncia de malos tratos y tortura contra el Sr. José Antúnez Becerra.

513. El Relator Especial aprecia el esfuerzo del Gobierno en responder a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial. En particular, agradece la información recibida al respecto del aplazamiento del Programa individual de tratamiento y a la atención médica recibida durante la huelga de hambre y el internamiento hospitalario del Sr. Antúnez Becerra.

514. Sin embrago, el Relator lamenta que no se haga referencia a la iniciación de acciones judiciales o investigaciones correspondientes sobre los otros actos de represalias, incluyendo la denegación del derecho a comunicarse con el exterior, los traslados y la denegación de los permisos de salida en el presente caso y sobre las condiciones de detención, en particular la denegación de acceso a la abogada y de comunicación de información a los familiares. Asimismo, el Relator considera que la respuesta recibida

carece de información suficiente al respecto de la asistencia médica recibida por el Sr. Antúnez Becerra tras haber sido dado de alta por el Hospital.

515. Ante la ausencia de suficiente evidencia contradictoria, el Relator Especial concluye que hay fundamentos suficientes, disponibles en el enlace señalado anteriormente, para determinar que el Gobierno de España es responsable por los sufrimientos físicos y mentales del Sr. Antúnez Becerra y ha violado su derecho a no ser sometido a tratos crueles, inhumanos o degradantes como lo establece el artículo 16 del CAT.

516. El Relator Especial quisiera recordarle al Estado la prohibición absoluta e inderogable de la tortura y de los malos tratos establecida en la Convención contra la Tortura (CAT). Por lo mismo, el Relator exhorta al Gobierno España a investigar los acontecimientos y enjuiciar y sancionar a los responsables, de conformidad con los artículos 7 y 12 de la CAT.

(d) UA 23/10/2015 Case No. ESP 9/2015 State Reply: 29/10/2015 **Alegaciones relativas al riesgo de deportación del Sr. Hassana Aalia a Marruecos, donde podría ser sometido a un grave riesgo de tortura, malos tratos, y una posible condena a cadena perpetua, debido a sus actividades en favor al derecho de autodeterminación del pueblo saharaui.**

517. El Relator Especial agradece al Gobierno de España por su respuesta de fecha 29 de Octubre de 2015 a la comunicación conjunta con otros procedimientos especiales, la cual versaba sobre el caso de Sr. Aalia.

518. El Relator Especial aprecia el esfuerzo del Gobierno en responder detalladamente a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial sobre las condiciones que Sr. Aalia podría enfrentar en caso de ser deportado a Marruecos. El Relator especial toma nota de la información proporcionada por el Gobierno de España que su petición de asilo ha sido presentada y que Sr. Aalia no enfrenta el riesgo de deportación hasta que se produzca la decisión final.

519. El Relator Especial concluye que el Gobierno de España ha analizado la petición de asilo de Sr. Aalia y ha asegurado los derechos de Sr. Aalia a la espera de la decisión, y no ha violado el derecho de Sr. Aalia a una oportunidad razonable de fundamentar una petición de que se le reconozca el estatus de refugiado o se le conceda asilo. Sin embargo, el Relator Especial afirma que la provisión de no devolución de la CAT, que es también una norma consuetudinaria del derecho internacional, es más protectora y estrecha que la norma de no devolución de la Convención sobre el Estatuto de los Refugiados de 1951. El Relator Especial hace un llamado al Gobierno de España para proteger el derecho del Sr. Aalia a estar libre de tortura o de otros tratos crueles inhumanos o degradantes, previsto en los artículos 1 y 16 de la CAT y abstenerse de extraditar o deportar al Sr. Aalia, de conformidad con el artículo 3 de la CAT.

Sudan

(a) JUA 09/12/2014 Case No. SDN 6/2014 State Reply: None to date **Alegations concerning the arbitrary arrest and incommunicado detention of Dr. Amin Mekki Medani and Mr. Farouk Abu Eissa.**

520. The Special Rapporteur regrets that the Government of Sudan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular, the letter expressed grave concerns regarding the alleged arbitrary arrest and incommunicado detention of Dr. Amin Mekki Medani and Mr. Farouk Abu Eissa, and the lack of information about their current fate and whereabouts.

521. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of Sudan, by failing to protect the physical and psychological integrity of Dr. Amin Mekki Medani and Mr. Farouk Abu Eissa; and that, by failing to provide adequate medical assistance and treatment during detention, violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(b) JAL 27/04/2015 Case No. SDN 2/2015 State Reply: None to date **Allegations concerning the arrest, detention and denial of adequate medical care of Mr. Adil Bakheit.**

522. The Special Rapporteur regrets that the Government of Sudan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

523. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above and thus, that the Government of Sudan, by failing to protect the physical and psychological integrity of Mr. Adil Bakheit, including by denial of access to adequate medical care, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by in the Convention Against Torture and other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), which the Government of Sudan signed on 4 June 1986.

524. While drafting this observation, it has come to the Special Rapporteur's attention that Mr. Bakheit has been released on bail on 3 May 2015.

(c) JUA 16/07/2015 Case No. SDN 5/2015 State Reply: None to date **Allegation concerning the arrest and subsequent charges of 12 and 10 female students, respectively, for "indecent dress," of degrading and humiliating against them in detention, and threat of imminent torture in the form of judicial corporal punishment.**

525. The Special Rapporteur regrets that the Government of Sudan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

526. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above and is therefore of the view that the Government of Sudan, by failing to prevent degrading treatment and humiliating verbal abuse of the female students in question, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1, 2, 14 and 16 of the CAT, and the State's duty to investigate, prosecute and punish those responsible, as provided by A/HRC/22/53.

527. The Rapporteur recalls that any form of corporal punishment constitutes torture or cruel, inhuman or degrading punishment in violation of customary international law, even when judicially imposed, and that the State's imposition of the penalty of flogging, as codified in art. 152 of its criminal code, constitutes torture under the CAT. The Rapporteur further stresses that both the Human Rights Committee and the Committee against Torture have called for the abolition of judicial corporal punishment, including excessive chastisement ordered as punishment for a crime as stated in paragraph 5 of General Comment No. 20 (1992) of the Human Rights Council, and also refers to the decision of the African Commission on Human and People's Rights in Frances Doebbler v. Sudan, wherein the Commission found that art. 152 of the Sudanese Criminal Law violates article 5 of the African Charter on Human and People's Rights.

528. The Rapporteur strongly urges the Government of Sudan to protect the female students' right to physical and psychological integrity, to refrain from imposing the judicial corporal punishment, repeal this law, and abolish its practice.

(d) JUA 27/08/2015 Case No. SDN 6/2015 State Reply: None to date **Allegations concerning the sentencing of Ferdous Al Toum and Rehab Omar Kakoum, who face punishment of flogging and heavy fines, on charges of "indecent dress."**

529. The Special Rapporteur regrets that the Government of Sudan has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

530. In absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above and is, therefore, of the view that the government of Sudan, by punishing those found guilty on charges of "indecent dress" with flogging, as provided under Article 152 of the 1991 Penal Code of Sudan, violates its duty to prevent in any territory under its jurisdiction acts of torture and other acts of cruel, inhuman or degrading treatment or punishment provided under international customary law, as codified, *inter alia*, in Articles 2 and 16 of the Convention against Torture (CAT).

531. The Rapporteur wishes to stress that corporal punishment of any sort amounts to torture in violation of customary international law, even if judicially imposed, and that flogging undoubtedly constitutes torture under the CAT. Consistently, paragraph 7 (a) of resolution 8/8 of the Human Rights Council has reminded Governments that corporal punishment can amount to cruel, inhuman or degrading punishment or even to torture. The Rapporteur stresses that both the Human Rights Committee and the Committee against Torture have called for the abolition of judicial corporal punishment, including excessive chastisement ordered as punishment for a crime as stated in paragraph 5 of General Comment No. 20 (1992) of the Human Rights Council.

532. The Special Rapporteur strongly urges the Government of Sudan to protect the right of Ferdous Al Toum and Rehab Omar Kakoum to be free from torture or cruel, inhuman or degrading treatment by setting aside the sentences. Additionally, the Rapporteur urges the Government of Sudan to take the steps necessary to refrain from imposing judicial corporal punishment and to abolish its practice.

Swaziland

JUA 25/03/2015 Case No. SWZ 1/2015 State reply: None to date **Allegation of arbitrary detention, conviction, and solitary confinement of lawyer and human rights defender, Mr. Thulani Maseko.**

533. The Special Rapporteur regrets that the Government of Swaziland has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

534. In his interim report to the General Assembly of 5 August 2011 (A/66/268), the Special Rapporteur defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged (in excess of 15 days under conditions of total isolation) or indefinite solitary confinement may never constitute a legitimate instrument of the State, as it may cause severe mental and physical pain or suffering, a point which has been reiterated in paragraph 28 of the General Assembly resolution 68/156. Prolonged or indefinite solitary confinement runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

535. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Swaziland failed to protect the physical and psychological integrity of Mr. Maseko by holding him in solitary confinement, and has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 2 and 16 of the Convention against Torture.

536. It has come to the attention of the Special Rapporteur that on 30 June 2015 Mr. Maseko was released from prison. The Rapporteur welcomes the decision of the Government to release Mr. Maseko.

Syrian Arab Republic

(a) JAL 30/05/2014 Case No. SYR 5/2014 State Reply: 06/02/2015 **Allegations of arbitrary arrest and detention, denial of access to medical services whilst in detention, torture and ill-treatment of Mr. Nael al Refai, which eventually led to his death in May 2014.**

537. The Special Rapporteur thanks the Government of the Syrian Arab Republic for its reply, dated 06.02.2015, to the present communication.

538. In particular, the letter expressed grave concerns regarding the alleged arbitrary arrest of Mr Al Refai, a military judge, after he inquired about the fate of his sister, who was suspected of being a political opponent. After months of incommunicado detention, he was reportedly sentenced in February 2014 in absentia to ten years in prison. When his relatives eventually saw him on March 2014 in detention he had clear signs of torture and mistreatment, and was being denied medical attention. He died while still in custody in May of 2014

539. The Rapporteur takes note of the information provided by the Government regarding the charges against Mr. Al Refai but regrets that no information has been provided regarding the allegations of torture and ill-treatment nor of any potential investigation into his death in custody

540. The Rapporteur hence finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13,

541. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of the Syrian Arab Republic, by failing to protect the physical and psychological integrity of Mr. Al Refai, and by denying him access to medical treatment, which led to his death in detention, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1, and 16 of the CAT, and has failed to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

(b) JUA 22/10/2015 Case No. SYR 2/2015 State Replies: 29/04/2015 and 30/10/2015 **Allegation of enforced disappearance and subsequent incommunicado detention of Mr. Bassel Khartabil**

542. The Special Rapporteur thanks the Government of Syria for its reply dated 30 October 2015 to the present communication, in which it refers to its reply communicated to

the Working Group on Arbitrary Detention (note no. 119/15 of 29 April 2015 – see link above) in their separate regular procedure.

543. The Rapporteur regrets the lack of any information regarding the physical and psychological integrity of Mr. Bassel Khartabil, and therefore concludes that there is substance in the allegations presented in the initial communication, available via the link above. The Government of Syria, by failing to protect the physical and psychological integrity of Mr. Bassel Khartabil and subjecting him to incommunicado detention, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided for, inter alia, Articles 1, 2 and 16 of the Convention Against Torture (CAT).

Thailand

(a) JUA 12/02/2015 Case No. THA 1/2015 State Reply: 17/02/2015 **Allegations concerning the situation of a group of several hundred individuals, claiming to be Turks, who continue to be held in various immigration detention centers (IDCs) and the shelters of the Ministry of Social Development and Human Security (MSDHS) in Thailand and remain at risk of deportation to China, where they may face arbitrary detention, torture and other cruel, inhuman or degrading treatment or punishment, and enforced disappearance.**

544. The Special Rapporteur thanks the Government of Thailand for its reply, 17.02.2015, to the present communication.

545. The Rapporteur takes note of the information provided by the Government of Thailand, that the letter has been forwarded to the relevant agencies in Thailand and that the Government is conducting an investigation on the case. The Rapporteur however finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

546. In the absence of sufficient information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication and thus, that the Kingdom of Thailand by failing to protect the physical and psychological integrity of these individuals, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

547. The Rapporteur furthermore strongly urges the Government of Thailand to refrain from extraditing these detained persons to any country where they would be at risk of torture or cruel, inhuman or degrading treatment or punishment, thereby ensuring compliance with article 3 of the CAT.

(b) JUA 21/05/2015 Case No. THA 3/2015 State Reply: 22/05/2015 **Allegation concerning "push back" policies of migrants and asylum seekers from Myanmar and Bangladesh in the Bay of Bengal.**

548. The Special Rapporteur thanks the Government of Thailand for its reply, dated 22 May 2015, to the present communication.

549. The Rapporteur welcomes the information provided by the Government underscoring its commitment to assist displaced persons and migrants at sea on humanitarian considerations and will not push them back and takes note of the scheduled hosting of a meeting regarding irregular migration with several affected states and relevant international organisations on 29 May 2015. In spite of the information provided by the Government, the Rapporteur regrets that the reply did not fully address the concerns in the initial

communication and in particular did not provide any more details about Thailand's policy, "push back" or other, against irregular migrants in Thailand's territorial waters. The Special Rapporteur calls upon Thailand not to implement any policy that may result in asylum seekers returning to a country where they may face torture or other cruel, inhuman or degrading treatment or punishment. In particular, policies or practices by the State that in effect deprive intending immigrants of a fair opportunity to state a claim that they might face such a risk if returned, constitute a violation of the State's international obligations.

550. The Special Rapporteur would like to draw the Government's attention to Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), acceded to by Thailand on 2 October 2007, which provides that no State party shall expel, return ("refouler"), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In this context, at paragraph 9 of General Comment No. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the Human Rights Committee states that State parties "must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement." Furthermore, paragraph 9 of the Resolution A/RES/61/253 of the UN General Assembly urges States "not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture."

551. The Rapporteur strongly urges the Government of Thailand to protect the right of migrants and asylum seekers to be free from torture or cruel, inhuman or degrading treatment and refrain from implementing any policies that would return migrants and asylum seekers to places where they risk torture or other ill-treatment, thereby ensuring Thailand's compliance with article 3 of the CAT.

(c) JUA 08/06/2015 Case No. THA 4/2015 State Reply: None to date **Allegation concerning the arbitrary detention, torture, and ill-treatment of Mr. Sandoen Srioonruen, Mr. Norapat Luaphon, Mr. Wichai Yoosul and Mr. Chanwit Jariyanukul by Bangkok military police officers.**

552. The Special Rapporteur regrets that the Government of Thailand has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

553. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Thailand, by failing to protect the physical and psychological integrity of Mr. Sandoen Srioonruen, Mr. Norapat Luaphon, Mr. Wichai Yoosul and Mr. Chanwit Jariyanukul has failed to act in accordance with Articles 2 and 16 of the Convention Against Torture.

The former Yugoslav Republic of Macedonia

JAL 20/04/2015 Case No. MKD 1/2015 State reply: 08/07/2015 **Allegations concerning the arbitrary detention of migrants and asylum seekers, including children, in overcrowded and unsanitary conditions in the Reception Centre for Foreigners, Gazi Baba.**

554. The Special Rapporteur thanks the Government of the Former Yugoslav Republic of Macedonia for its reply, dated 8 July 2015, to the present communication.

555. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations, and questions raised in the initial communication. He welcomes the information provided by the Government according to which the permissible length of time that a detainee can be held in detention centres is "no longer than 12 (twelve) months," and that per EU Directives, this time will be reduced from 12 months to 6 (six) months. He takes note of the information provided by the Government that detainees have the right to receive guests, including legal representatives, and that representatives from international and local organizations, such as the IOM, Doctors without Borders, and the European Committee for the Prevention of Torture have visited the centre. The Rapporteur acknowledges the information provided by the Government that medical care for detainees is provided by the Ministry of Health in cooperation with the Skopje Red Cross and UNHCR, and that healthcare is provided in an area where police officers are not allowed. He also takes note that the centre's hygiene is maintained by a privately owned company and that since the centre opened, not a single case of contagious disease has been registered.

556. Additionally, the Rapporteur acknowledges the information provided by the Government that the number of individuals held at the centre in 2015 will exceed that of 2014 (896 were held in 2014, compared with 211 in 2011), and that the migrants' lack of documentation of personal identification has resulted in delays in processing. He acknowledges the Government's assertion that one of its greatest shortcomings is the facility's capacity, which has led to the inability of the facility to comply with standards, and that accordingly the Reception Centre may be relocated to a building with greater capacity.

557. Furthermore, the Rapporteur takes note of the information provided by the Government that, per the new Law on Foreigners, unaccompanied minors and families with minors are detained only as a last resort and within the shortest possible period. He welcomes the information that each unaccompanied minor is appointed a guardian and that the guardians' work is guided by the best interest of the child principle.

558. The Rapporteur calls on the Government of the former Yugoslav Republic of Macedonia to keep him informed of the implementation of the new law reducing migrants' detention from 12 months to 6 months, the possible move to a larger facility to accommodate the number of asylum seekers and migrants, including the number of individuals (adults and children) held therein, the conditions of existing and new facilities, and what changes, if any, there are to the length of time individual cases take to process.

559. He reminds the Government of article 10(1) of the ICCPR, which provides that all persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person. He draws the attention of the Government to General Comment No.2 (2008) of the Committee against Torture that stressed that certain basic guarantees established by the Convention against Torture must apply to all persons deprived of their liberty, including inter alia, maintaining an official register of detainees, the right of detainees to be informed of their rights, the need to establish impartial mechanisms for inspecting and visiting places of detention and confinement, and the availability to detainees and persons at risk of torture and ill-treatment of judicial and other remedies that will allow them to have their complaints promptly and impartially examined, to defend their rights, and to challenge the legality of their detention or treatment.

Tunisia

(a) **JAL 07/11/2014** Case No. TUN 2/2014 State Reply: 07/01/2015 **Allégations de torture ayant entraîné le décès de M. Mohamed Ali Snoussi et de M. Ali Ben Khemayes Louati.**

560. Le Rapporteur spécial remercie le Gouvernement pour les informations fournies en réponse à sa lettre du 07 novembre 2014 concernant les allégations susmentionnées et remercie les autorités pour leur collaboration avec le mandat,.

561. Le Rapporteur spécial prend note des informations relatives aux conditions d'arrestation et de détention de M. Mohamed Ali Snoussi, ainsi que du fait qu'une enquête serait toujours en cours quant aux circonstances du décès. Le Rapporteur demande au gouvernement de Tunisie de lui fournir des informations additionnelles et actualisées.

562. Le Rapporteur spécial remercie les autorités pour les éclaircissements apportés en ce qui concerne les évènements survenus au cours du séjour en détention de M. Ali Ben Khemayes Louati. Le Rapporteur demande également au gouvernement de Tunisie de lui fournir des informations additionnelles et actualisées quant à l'enquête en cours sur les circonstances du décès.

(b) JUA 01/12/2014 Case No. TUN 3/2014 State Reply: 26/01/2015 **Allégations d'actes de torture et mauvais traitements par des forces de sécurité antiterroriste, de détention au secret, ainsi qu'à la violation des garanties à une procédure régulière et à un procès équitable.**

563. Le Rapporteur spécial remercie le gouvernement de Tunisie pour sa réponse, datée du 26 janvier 2015, à la présente communication.

564. Le Rapporteur a pris connaissance de l'explication du gouvernement en réponse aux préoccupations, obligations légales et questions soulevées dans la communication initiale. Il prend note de l'information fournie par le gouvernement selon laquelle l'arrestation de M. Karin Rhimi était justifiée par un mandat d'arrêt et s'est entièrement déroulée en coopération avec Ministère Public, et que selon le Code de Procédure Pénale, la présence d'un avocat au cours d'une enquête pénale nécessite qu'une requête pour assistance judiciaire soit déposée, ce qui n'avait pas été le cas en l'espèce. Néanmoins, le Rapporteur observe que l'accès à un conseil dès le début de la dérivation de liberté constitue une garantie fondamentale contre tout mauvais traitement, et que, dans ce contexte, la loi tunisienne ne semble pas être en accord avec les obligations internationales.

565. Le Gouvernement affirme que l'arrestation de M. Karin Rhimi s'étant déroulé devant sa famille, sa détention ne peut être qualifiée de secrète. Le Rapporteur souhaiterait souligner que, même si l'arrestation se serait déroulée devant la famille de l'individu, celle-ci n'était pas informée du lieu de sa détention (même après les 5 jours prévue par la loi), est qu'une telle détention peut être en effet qualifiée de secrète, ce qui crée un contexte favorable à la torture et des mauvais traitements.

566. M. Karin Rhimi aurait dénié toute accusation portée contre lui. Le Rapporteur prend note du fait que la signature de M. Karin Rhimi sur le rapport d'enquête n'est pas nécessaire afin de leur accorder une valeur légale.

567. Le Rapporteur accueille avec intérêt l'information fournie par le gouvernement selon laquelle les services secrets affirment que les allégations de torture sont sans fondement. Cependant, le Gouvernement ne traite pas dans sa réponse de la mise en place d'un examen médical impartial de M. Karin Rhimi effectué par un organe indépendant.

568. Le Gouvernement n'a pas répondu aux possibilités de dépôt de plainte, par la victime ou en son nom, des allégations mentionnées par le Rapporteur. Le Rapporteur souhaiterait

aussi souligner que selon les informations reçues, même l'examen médicale superficielle entretenu par le médecin de la prison d'Al-Mornaguia aurait montré des signes des blessures et par conséquent des motifs raisonnables de croire que la torture a été commis, ce qui aurait du être suivi par une enquête rapide et impartiale ainsi que la poursuite des auteurs présumés, comme prévu dans les articles 7 et 12 de la CCT.

569. Le Rapporteur estime que le gouvernement a failli à se conformer à son obligation, en vertu du droit international coutumier, d'enquêter, poursuivre, et punir tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

(c) JOL 24/07/2015 Case No. TUN 1/2015 State Reply: None to date **Allégations d'éventuelles atteintes aux normes et standards internationaux en matière de protection des droits de l'homme pouvant être causées par certaines dispositions de la portant répression des actes de terrorisme.**

570. Le Rapporteur spécial regrette que le gouvernement de Tunisie n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13.

571. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus, et que le Gouvernement de Tunisie, en initiant le projet de loi organique n° 2015-22 relatif à la lutte contre le terrorisme et le blanchiment d'argent, a failli à se conformer avec les normes et les standards internationaux relatif aux droits de l'homme, notamment les articles 1, 2 et 16 de la Convention contre la torture (CAT) et 2 et 4 du Pacte international relatif aux droits civils et politiques (PIDCP).

572. A cet effet, le Rapporteur spécial rappelle la résolution 2003/68 de la Commission des Droits de l'Homme qui « [E]ncourage les États à tenir compte, dans la lutte antiterroriste, des résolutions et décisions pertinentes de l'Organisation des Nations Unies concernant les droits de l'homme, et les incite à prendre en considération les recommandations émanant des procédures et mécanismes spéciaux de la Commission des droits de l'homme et les observations et vues pertinentes des organes des Nations Unies créés en vertu des traités internationaux relatifs aux droits de l'homme » (par. 6)

573. Par ailleurs, le Rapporteur spécial tient à rappeler au Gouvernement de Tunisie l'interdiction absolue et non dérogatoire de la torture et autres peines ou traitements cruels, inhumains ou dégradants comme codifié, *inter alias*, à l'article 7 du Pacte International sur les civils et les droits politiques (PIDCP) et les Articles 2 et 16 de la Convention contre la torture (CAT). Le Rapporteur rappelle également que, suivant la convention contre la torture (CAT), le Gouvernement de la Tunisie a l'obligation de prévenir tout acte de torture dans tout territoire sous sa juridiction.

574. Le rapporteur recommande urgemment au Gouvernement de la Tunisie à prendre toutes les mesures nécessaires pour s'assurer que toutes les dispositions du projet de la loi organique n° 2015-22 sont entièrement conformes aux normes internationales relatives à l'interdiction et la prévention de la torture et autres mauvais traitements.

(d) JAL 02/11/2015 Case No. TUN 2/2015 State Reply: None to date **Allégations d'abus physiques et d'examen médical dégradant et humiliant sur la personne de M. X.**

575. Le Rapporteur spécial regrette que le gouvernement de Tunisie n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec le mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13.

576. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus. En soumettant M. X à diverses violences policières lors de son interrogatoire, ainsi qu'à un examen anal sous la contrainte afin de déterminer son passif sexuel, pratique condamnée comme traitement inhumain et dégradant par l'ONU, le gouvernement du de la Tunisie a échoué à garantir l'intégrité physique et psychique de M.X. Le gouvernement du Tchad a failli à se conformer à l'interdiction absolue de tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

Turkey

JUA 19/12/2014 Case No. TUR 4/2014 State Reply: 07/04/2015 **Allegation concerning the disappearance, arbitrary detention, and refoulement of Mr. X, a Libyan national, to Libya, a country where he risks being subjected to torture and other forms of ill-treatment.**

577. The Special Rapporteur thanks the Government of Turkey for its reply, dated 7 April 2015, to the present communication.

578. The Rapporteur takes note of the information provided by the Government that Mr. X was using fake identification papers to enter Turkey and subsequently, following the relevant procedure according to the provisions of the Law on Foreigners and International Protection, was deported to Libya, his country of nationality. The Rapporteur however finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

579. In this context, the Rapporteur reminds the Government of its obligation to protect the right to physical and mental integrity of all persons, regardless of immigration status, under the UDHR and the Convention against Torture. The Rapporteur would like to draw the Government's attention to article 3 of the Convention against Torture, which provides that no State party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. The Rapporteur further notes that paragraph 9 of General Comment No. 20 of the Human Rights Committee states that State parties must not expose individuals to the danger of torture or cruel, inhuman or degrading treatment or punishment upon return to another country by way of extradition, expulsion or refoulement. The Special Rapporteur also draws the attention of the Government to paragraph 16 of the Resolution A/RES/65/206 of the UN General Assembly which urges States "not to expel, return ("refouler"), extradite or in another way transfer a person to another States where there are substantial grounds for believing that the person would be danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligation under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement." The prohibition of refoulement in Art. 3 CAT is absolute and recognizes no exception; it is also not conditioned on the behavior of the person to be returned. His manner of entry into Turkey, therefore, is irrelevant.

580. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Turkey, by deporting Mr. X to Libya, a country where he risked being subjected to torture and other forms of ill-treatment,

has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by article 3 of the CAT.

Ukraine

(a) JOL 09/06/2015 case No. UKR 1/2015 State Reply: None to date **Allegations concerning adoption by the Parliament of a resolution requesting derogation from certain rights protected by international and regional human rights treaties to which Ukraine is a State party, resolution entitled "On the Approval of the Notification of Ukraine about the Derogation from Certain Obligations Determined by the Convention for the Protection of Human Rights and Fundamental Freedoms and the International Covenant on Civil and Political Rights"**

581. The Special Rapporteur regrets that the Government of Ukraine has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

582. In June 2015, the Permanent Mission of Ukraine to the United Nations presented the resolution in question to the Secretary-General of the United Nations and declared a derogation from article 2(3), 9, 12, 14, and 17 of the ICCPR in certain areas of the Dunetsk and Luhansk regions.

In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above. The Government of Ukraine, by derogating from its treaty obligations under the ICCPR, gives way to possible violations of international human rights law, including the absolute and non-derogable prohibition of torture or cruel, inhuman or degrading treatment.
583. By failing to answer, the Government of Ukraine does not dispel the concerns expressed by the Special Rapporteurs and Working Groups regarding the possibly discriminatory implementation of drastic restriction to human rights protections or about the safeguards in law that will be necessary to ensure effective remedies for those persons who may be subject to abuses of their rights, including protection against torture and ill-treatment.

(b) JUA 26/06/2015 Case No. UKR 3/2015 State Reply: 14/08/2015 **Allegations concerning the Security Service of Ukraine's arbitrary arrests, detention, torture, and mistreatment of eleven members of the legally registered Russian-speaking minority non-governmental organization "Orthodox Kossacks", including Mr. Eliseev Vadim Alekseevich, Mr. Yankovski Igor Yurivich, Mr. Kolomeitsov Anatoly Borisovich, Mr. Nazarenko Vitaly, Mr. Cherep Dmitri Nikolaevich, and Mr. Shalamov Aleksandr.**

584. The Special Rapporteur thanks the Government of Ukraine for its reply, dated 14 August 2015, to the present communication. The Special Rapporteur takes note of the information provided by the Government that members of "Orthodox Kossacks" were detained lawfully pursuant to terrorism charges. Despite the Government's assurance that it is investigating whether members of the National Security Service Department overstepped their authority during the detention of the group's members, the reply fails to address allegations that the aforementioned persons were subjected to torture and other ill-treatment during interrogation.

585. The Special Rapporteur hence finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

586. In the absence of information to the contrary, the Special Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Ukraine, by failing to protect the physical and psychological integrity of the aforementioned persons, has violated their rights to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1, 2, 15, and 16 of the Convention against Torture.

587. The Special Rapporteur reminds the Government of its obligations to prevent, investigate and punish all acts of torture and ill treatment under Articles 1, 2, and 16 of the Convention Against Torture (CAT).

588. The Special Rapporteur further calls on the Government of Ukraine to undertake a systematic review of its interrogation rules, instructions, methods and practices, as well as its arrangements for the custody and treatment of individuals subject to arrest, detention or imprisonment so as to prevent future cases of torture, per articles 2 and 11 of CAT,. The Special Rapporteur expects to be kept fully informed of the outcome of the investigation and proceedings in this case.

United Arab Emirates

(a) JUA 22/12/2014 Case No. ARE 7/2014 State reply: 20/01/2015 **Allegation of arbitrary arrest, incommunicado detention, and enforced disappearance of Mr. Amer Alshava, a Turkish national of Palestinian origin, by the United Arab Emirates State Security Agency.**

589. The Special Rapporteur thanks the Government of the United Arab Emirates (UAE) for its reply, dated 20 January 2015, to the present communication.

590. The Rapporteur takes note of the information provided by the Government that Mr. Alshava was arrested due to his alleged involvement with the Muslim Brotherhood, which the Government of the UAE lists as a terrorist organization, and charged with financing terrorism. In spite of the information supplied by the Government, the Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

591. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of the UAE, by subjecting Mr. Alshava to incommunicado detention, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(b) JUA 20/02/2015 Case No. ARE 1/2015 State reply: 03/03/2015 **Allegations concerning the arbitrary arrest, incommunicado detention, and enforced disappearances of three sisters, Ms. Asma Khalifa al-Suwaidi, Ms. Meriem Khalifa al-Suwaidi and Ms. AlYazyeh Khalifa al-Suwaidi by the United Arab Emirates State Security forces in Abu Dhabi.**

592. The Special Rapporteur thanks the Government of the United Arab Emirates (UAE) for its reply dated 3 March 2015, to the present communication.

593. The Rapporteur takes note of the information provided by the Government that Ms. Asma Khalifa al-Suwaidi, Ms. Meriem Khalifa al-Suwaidi and Ms. AlYazyeh Khalifa al-Suwaidi have been arrested on charges of being members of an organization which the Government of the UAE lists as a terrorist organization and that they were able to appoint a lawyer for their defence.

594. The Rapporteur however regrets that no further information has been provided regarding the whereabouts of the named individuals as well as any measures potentially taken to ensure their physical and psychological integrity.

595. He would furthermore like to draw the attention of your Excellency's Government to paragraph 27 of General Assembly Resolution 68/156, which, "[r]eminds all States that prolonged incommunicado detention or detention in secret places can facilitate the perpetration of torture and other cruel, inhuman or degrading treatment or punishment and can in itself constitute a form of such treatment, and urges all States to respect the safeguards concerning the liberty, security and dignity of the person and to ensure that secret places of detention and interrogation are abolished."

596. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of the UAE, by subjecting Ms. Asma Khalifa al-Suwaidi, Ms. Meriem Khalifa al-Suwaidi and Ms. AlYazyeh Khalifa al-Suwaidi to incommunicado detention, has violated their right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

(c) JUA 02/04/2015 Case No. ARE 2/2015 State reply: 30/04/2015 **Allegations concerning the arbitrary arrest, detention, and conviction of Mr. Osama al-Najjar, as well as his torture and ill-treatment while in detention.**

597. The Special Rapporteur thanks the Government of the United Arab Emirates for its reply, dated 30 April 2015, to the present communication.

598. The Rapporteur however finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

599. The Rapporteur would like to remind the Government of the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), to which UAE acceded on 19 July 2012.

600. The Rapporteur would also like to draw the attention of the Government to articles 12 and 7 of the CAT, which require the competent authorities to undertake a prompt and impartial investigation wherever there are reasonable grounds to believe that torture has been committed, and to prosecute suspected perpetrators of torture.

601. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above. The Rapporteur is therefore of the view that the Government of the United Arab Emirates, by facilitating the torture and ill-treatment of Mr. al-Najjar while in detention, and by failing to investigate, prosecute, and punish such acts, has violated Mr. al Najjar's right to be free from torture and other cruel, inhuman and degrading treatment or punishment, as recognised under international customary law and codified, inter alia, in the CAT.

(d) JUA 27/08/2015 Case No: ARE 3/2015 State Reply: None to date **Allegation concerning the arbitrary and incommunicado detention, torture or mistreatment of Emirati national, Mr. Nasser bin Ghaith.**

602. The Special Rapporteur regrets that the Government of the United Arab Emirates has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council Resolution 25/13.

603. In the absence of the information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of the United Arab Emirates, by failing to protect the physical and psychological integrity of Mr. Nasser bin Ghaith and subjecting him to incommunicado detention, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided for, inter alia, Articles 1, 2 and 16 of the Convention Against Torture (CAT).

(e) JUA 20/11/2015 Case No. ARE 4/2015 State Reply: 18/12/2015 **Allegations concerning the arbitrary detention, incommunicado detention, torture and ill-treatment, of 6 Libyan businessmen, namely Mr. Salim Alaradi and Mr. Mohamed Alaradi, brothers and both Libyan-Canadian citizens, Mr. Kamal Ahmed Al Darrat and Mr. Mohamed Kamal Al Darrat, father and son, both Libyan-American citizens, and Mr. Adel Rajab Beleid Nasef, Libyan citizen, in the United Arab Emirates (UAE).**

604. The Special Rapporteur thanks the Government of the United Arab Emirates for its reply, dated 18 December 2015, to the present communication.

605. He regrets that, as of the drafting of this report, no official translation is available to the Government's reply.

606. The Rapporteur will make his views on the case known later on, after being able to read an English version of the reply.

United Kingdom of Great Britain and Northern Ireland

(a) JUA 02/12/2014 Case No. GBR 6/2014 State Reply: 26/02/2015 **Allegation concerning the continued detention of Mr. Liaquat Ali Hazara, a human rights defender and member of a religious minority in Pakistan, and the risk Mr. Hazara faces of being tortured and killed should he be forcibly returned to Pakistan, in contravention to the United Kingdon's non-refoulement obligation.**

607. The Special Rapporteur thanks the Government of the United Kingdom of Great Britain and Northern Ireland for its reply, dated 26 February 2015, to the present communication.

608. The Rapporteur takes note of the information provided by the Government that Mr. Hazara was granted bail by an immigration Judge and is no longer in detention. However, although at the date of the communication Mr. Hazara had, due to the lack of emergency travel documents, not yet been deported to Pakistan, where he risks being tortured, there is substantial risk that he could be at any moment. The Rapporteur therefore finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

609. The Special Rapporteur would like to draw the Government's attention to Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), ratified by the United Kingdom of Great Britain and Northern Ireland on 8 December 1988, which provides that no State party shall expel, return ("refouler"), or extradite a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture. In this context, at paragraph 9 of General Comment No. 20 on the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, the Human Rights Committee states that State parties "must not expose individuals to the danger of torture or cruel, inhuman or degrading

treatment or punishment upon return to another country by way of extradition, expulsion or refoulement."

610. The Rapporteur therefore strongly urges the Government of the United Kingdom of Great Britain and Northern Ireland to protect the right of Mr. Hazara to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT and article 7 of the International Covenant on Civil and Political Rights, and to refrain from deporting him to Pakistan where he risks torture, thereby ensuring compliance with article 3 of the CAT.

(b) JAL 01/04/2015 Case No. GBR 2/2015 State Reply: 15/07/2015 **Allegation concerning the persistence of provisions relating to abortion that directly discriminate against women and girls in Northern Ireland as they restrict their rights to health and physical integrity under international human rights law.**

611. The Special Rapporteur thanks the Government of the United Kingdom of Great Britain and Northern Ireland for its reply, dated 15 July 2015, to the present communication.

612. The Rapporteur takes note of the information provided by the Government of the allegation concerning abortions in Northern Ireland only being permitted if a woman's life is at risk, or if there is a risk of permanent and serious damage to her mental or physical health. The Rapporteur acknowledges the Government's explanation that although Northern Ireland is part of the United Kingdom, and subject to much of its legislation, its Parliament has not decided to adopt the provisions of the Abortion Act. The Rapporteur looks forward to the decision of the Northern Ireland Executive on whether or not it will seek to amend the law to enable women to terminate a pregnancy in the event of a diagnosis of lethal fetal abnormality.

613. In spite of the information supplied by the Government, its reply fails to inform the Rapporteur on pregnancies resulting from rape or incest. The Rapporteur hence finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication.

614. The Rapporteur would like to draw the Government's attention to his 2013 thematic report to the Human Rights Council (A/HRC/22/53) where he "call[ed] upon all States to ensure that women have access to emergency medical care, including post-abortion care without fear of criminal penalties or reprisals. States whose domestic law authorizes abortions under various circumstances should ensure that services are effectively available without adverse consequences to the woman or the health professional" (para. 90). He furthermore stated that international and regional human rights bodies have begun to recognize that abuse and mistreatment of women seeking reproductive health services can cause tremendous and lasting physical and emotional suffering, inflicted on the basis of gender (para. 46). Moreover, the Committee against Torture has repeatedly expressed concerns about restrictions on access to abortion as violating the prohibition of torture and ill-treatment (para. 50).

615. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of the United Kingdom of Great Britain and Northern Ireland, in failing to amend its abortion legislation in effect in Northern Ireland has violated the right of women to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the Convention Against Torture.

United States of America

(a) UA 31/07/2014 Case No. USA 12/2014 State Reply: 13/03/2015 **Allegations concerning the situation of seven non-Afghan nationals in U.S. military custody at the Bagram Air Base in Afghanistan, who are at risk of being forcibly transferred to the custody of other States where they may be tortured, ill-treated or even summarily executed**

616. The Special Rapporteur thanks the Government of the United States for its reply, dated 17 March 2015, to the present communication. The Rapporteur takes note of the information provided that the United States Government does not transfer any individual to a foreign country if it is more likely than not that the person would be tortured and that it is US practice to seek post-transfer confidential monitoring of the detainees. In spite of the information supplied by the Government that each detainee was transferred consistent with the foregoing policy, its reply fails to inform the Rapporteur of the specific fate and whereabouts of the seven persons detained identified in the initial communication.

617. Under these circumstances it is impossible for the Special Rapporteur whether or not the US government has violated its obligations of non-refoulement as expressed in paragraph 16 of Resolution A/RES/65/205 of the UN General Assembly, which urges States "not to expel, return ("refouler"), extradite or in any other way transfer a person to another State where there are substantial grounds for believing that the person would be in danger of being subjected to torture, and recognizes that diplomatic assurances, where used, do not release States from their obligations under international human rights, humanitarian and refugee law, in particular the principle of non-refoulement."

618. In the 2015 report of the Special Rapporteur presented to the General Assembly, (A/70/303), he calls upon the absolute prohibition of non-refoulement applies at all times, even when States are operating or holding individuals extraterritorially, including border control operations on the high seas. The procurement of diplomatic assurances, which are inherently unreliable and ineffective, cannot be used by States to escape the absolute obligation to refrain from refoulement.

619. In addition, the Special Rapporteur respectfully disagrees with the Government in the use of the "more-likely-than-not" standard for the assessment of the risk of torture or ill-treatment to which a person may be exposed if deported or extradited. In the plain language of the CAT, even a less than 50% chance of such treatment constitutes a risk that triggers the absolute prohibition of *refoulement*.

620. The Special Rapporteur urges the Government of the United States to provide additional information about the fate and whereabouts of the seven persons detained in U.S. military custody and later transferred to other jurisdictions, and to ensure their rights are respected in compliance with international law, in particular the international principle of non-refoulement as expressed above.

(b) JUA 01/12/2014 Case No. USA 18/2014 State Reply: 11/12/2014 **Allegation concerning the situation of Mr. Scott Louis Panetti, death row prisoner since 1995 who suffers from serious mental illness. Mr. Panetti is reportedly at risk of being executed in the state of Texas, United States of America.**

621. The Special Rapporteur thanks the Government of the United States of America for its reply, dated 11 December 2014, to the present communication.

622. The Rapporteur takes note of the information provided by the Government that on the date Mr. Panetti was to be executed, the United States Court of Appeals for the Fifth Circuit issued a stay of execution to consider the complex legal questions at issue. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication, which prompts him to infer that the

Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

623. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74).

624. The Special Rapporteur further recalls that the execution of persons who are mentally disabled is per se a violation of an existing norm of customary international law (para. 64). The Special Rapporteur also calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering, and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

625. As further observed in the Special Rapporteur's interim report to the General Assembly of 5 August 2011 (A/66/268), conditions on death row are often worse than those of the rest of the prison population and often include lengthy and anxiety-ridden wait for uncertain outcomes, isolation, drastically reduced human contact and even sometimes worse physical detention conditions which can produce several mental trauma and physical deterioration in prisoners ("death row phenomenon") (para. 42).

626. The Special Rapporteur recalls that when used for juveniles, pregnant women, or people with mental disabilities, persons serving life sentences and persons awaiting execution on "death row" (A/66/268 and A/68/295), solitary confinement amounts to cruel, inhuman or degrading treatment or punishment or even torture, even if not used indefinitely or for a prolonged period of time.

627. The Rapporteur is therefore of the view that the Government of the United States of America, by sentencing to death a person with mental disabilities and by continuing to hold Mr. Panetti on "death row" has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the Convention against Torture, article 7 of the International Covenant on Civil and Political Rights (ICCPR), and customary international law.

(c) JUA 09/12/2014 Case No. USA 20/2014 State Reply: 30/04/2015 **Allegation concerning the case of Mr. Paul Goodwin, sentenced to death for murder and executed on 10 December 2014 despite mental health experts attesting that he was a person with psychosocial and intellectual disabilities.**

628. The Special Rapporteur thanks the Government of United States of America for its reply, dated 30 April 2015, to the present communication, wherein he was informed that the death penalty imposed on Mr. Paul Goodwin had been executed on 10 December 2014.

629. As observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or

degrading treatment or punishment (para. 79). The Special Rapporteur also reiterates to the Government of the United States that imposing and executing the death penalty on a person with mental disabilities, as is the case with Mr. Goodwin, is a per se violation of an existing norm of customary international law (para. 64).

630. The Rapporteur strongly condemns the execution of Mr. Goodwin and concludes that the Government of the United States, in executing Mr. Goodwin, a person suffering from intellectual disability, has violated his right to be free from torture or cruel, inhuman or degrading treatment or punishment, as provided by articles 1 and 16 of the Convention Against Torture and article 7 of the International Covenant on Civil and Political Rights. The Rapporteur calls on the Government of the United States to take appropriate measures in order to ascertain that the practice of executions be abolished in the future, in particular in relation to pregnant women, recent mothers, juveniles and people suffering from mental disabilities.

(d) JAL 15/01/2015 Case No. USA 1/2015 State Reply: 18/06/2015 **Allegation concerning the role of health professionals from the Central Intelligence Agency's (CIA) enhanced interrogation program between 2001 and 2009, and the subsequent lack of investigation into these allegations.**

631. The Special Rapporteur thanks the Government of the United States of America for its reply, dated 18 June 2015, to the present communication.

632. The Rapporteur welcomes the information provided by the Government regarding Executive Order 13491 issued by President Obama, which formally ended the CIA's detention and interrogation program. He takes note of the declassification of the Executive Summary, Findings, and Conclusions of the Report of the Senate Select Committee on Intelligence on the CIA Detention and Interrogation Program, and that the harsh interrogation techniques highlighted in the Report are not representative of how the United States deals with the threat of terrorism today. The Rapporteur also takes note of the information provided by the Government that investigations into the treatment of detainees were conducted, two criminal investigations were generated, but that the Department of Justice declined to prosecute because the admissible evidence would not be sufficient to obtain and sustain convictions beyond a reasonable doubt.

633. In spite of the information supplied by the Government, its reply fails to inform the Rapporteur about whether the two individuals for which criminal investigations were generated were health professionals. Moreover, it fails to provide details about further investigative and prosecutorial steps the United States plans to undertake with regard to the CIA interrogation and detention program.

634. The Rapporteur would like to draw the Government's attention to the absolute and non-derogable prohibition of torture and other ill-treatment as codified, inter alia, in article 1 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which was ratified by the United States of America on 21 October 1994. The Convention also establishes the affirmative obligation to investigate, prosecute and punish every act of torture. As interpreted by the Committee Against Torture, this obligation is not subject to a statute of limitations or to any other impediment to prosecution.

635. As stated in the Rapporteur's 2013 thematic report to the Human Rights Council, in addition to the absolute prohibition to inflict torture or other cruel, inhuman or degrading treatment or punishment, "a State's obligation to prevent torture applies not only to public officials, such as law enforcement agents, but also to doctors, health-care professionals and

social workers, including those working in private hospitals, other institutions and detention centres." (A/HRC/22/53, para. 24).

636. The Rapporteur's 2013 thematic report to the General Assembly (A/68/295) emphasized that based on principles 2 and 3 of the Principles of Medical Ethics, and the Ethical Principles for Medical Research Involving Human Subjects, "health professionals must not, under any circumstance, consent or acquiesce to torture or other ill-treatment, let alone take active part in any such ill-treatment." (para. 56).

637. Furthermore, the Rapporteur's 2014 report to the General Assembly (A/69/387) stated that according to medical ethical standards, health professionals have the obligation not to participate actively or passively in torture or other ill-treatment. No obligation to a third party can override the duty to protect the individual from torture or other ill- treatment or to report such cases. The World Medical Association has held that health professionals should be made aware of their ethical obligations, including the need to report torture and other ill-treatment, to maintain confidentiality and to seek the consent of victims prior to examination. The Association has consistently reiterated its policy on the responsibility of physicians to denounce acts of torture or cruel, inhuman or degrading treatment or punishment of which they are aware. It urges national medical associations to speak out in support of these fundamental principles of medical ethics and to investigate any breach of these principles by their members (para. 29).

638. The Special Rapporteur finds that the Government fails to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

639. The Rapporteur addressed his concerns regarding the CIA's detention program comprehensively during his testimony to the Inter-American Commission for Human Rights on 23 October 2015, which can be read in its entirety here.

(e) JAL 28/01/2015 Case No. USA 3/2015 State Replies: 17/06/2015 and 02/12/2015 **Allegations concerning the conditions of Texas Department of Criminal Justice (TDCJ) prison facilities, within the State of Texas, and allegations that prisoners and staff are being exposed to extreme heat resulting in illness and, in some cases, death.**

640. The Special Rapporteur thanks the Government of the United States for its replies, dated 17 June 2015 and 02 December 2015, to the present communication. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations and questions raised in the initial communication. He welcomes the information provided by the Government according to which the Texas Department of Criminal Justice (TDCJ) is implementing heat precautionary measures such as providing water and ice to staff and offenders in work and housing areas, restricting offender activityduring the hottest parts of the day and wellness checks, among others, in order to prevent heat-related illnesses and assist detainees in prison facilities from high temperatures as well as the training of staff to identify those offenders with heat-related illness and refer them to medical staff for treatment. The Special Rapporteur further welcomes that offenders are encouraged to seek medical care if they experience any type of heat-related concerns. He takes note of the information provided regarding the high costs of possible retrofitting facilities with air conditioning units.

641. The Special Rapporteur reminds the United States their obligation to protect the right to physical and mental integrity of all persons under its jurisdiction, and encourages the State to effectively and fully implement all measures and policies established by the TDCJ,

to prevent the re-occurrence of these events and to improve the conditions within the TDCJ prison facilities.

(f) JAL 24/03/2015 Case No. USA 5/2015 State Reply: 02/09/2015 **Allegations concerning an airstrike, involving the use of an armed drone, reportedly conducted on 26 January 2015 in the Huraib Area, Mareb Governorate of Yemen, which caused three deaths, including that of a child aged 13 and also about two other airstrikes reportedly conducted in 2011 and 2013.**

642. The Special Rapporteur thanks the Government of the United States for its reply, dated 2 September 2015, to the present communication. The Rapporteur takes note of the information provided regarding their policies on the use of lethal force in counterterrorism operations. However, the Rapporteur finds that the Government, by not submitting any substantive information on the specific events described and their circumstances, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

643. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above and is therefore of the view that the Government of the United States, has failed to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

644. The Special Rapporteur will like to remind the State of its duty to conduct a fair and impartial investigation into the incidents and to prosecute and punish those responsible.

(g) JAL 10/04/2015 Case No. USA 7/2015 State Replies: 05/08/2015 and 04/12/2015 **Allegations concerning the torture of African Americans and other minorities at Area ___ Police Headquarters in the City of Chicago from 1972 through 1991.**

645. 1. The Special Rapporteur thanks the Government of the United States for its replies, dated 07 August and 3 of December 2015, to the present communication.

646. The Rapporteur acknowledges the comprehensive account of the Government in response to the concerns, legal obligations and questions raised in the initial communication. He welcomes the information provided in relation to the research conducted by the Office of the Attorney General of Illinois regarding the claims raised by each petitioner. Additionally he appreciates the efforts made in the establishment of the Illinois Torture Inquiry and Relief Commission. Also he values the efforts made by Judge Biebel as Special Master to find additional victims who are currently incarcerated. The Special Rapporteur thanks the City Council for their formal apology and for offering the package on financial and other reparations to individuals who claim torture or physically abused.

647. 2. The Rapporteur wishes to stress the importance of the duty to conduct a fair and impartial investigation into the incidents and to prosecute and punish those responsible, as well as to prevent the re-occurrence of these events and, should the investigations support or suggest the allegations to be correct, to ensure the accountability of any person(s) responsible for the alleged violations in accordance to the Convention against Torture (CAT).

(h) JAL 30/04/2015 Case No. USA 10/2015 State replies: 24/06/2015 and 11/09/2015 **Allegation concerning racial discrimination against Mr. Mumia Abu-Jamal, a person of African descent, and lack of access to appropriate medical treatment whilst in detention.**

648. The Special Rapporteur thanks the Government of the United States of America for its replies, dated 24 June and 11 September 2015, to the present communication.

649. The Rapporteur takes note of the information provided by the Government that it reached out to officials in the Pennsylvania Department of Corrections ("DOC") and that the DOC does not disclose the medical information of inmates in its care but assures that all inmates have access to the appropriate medical care.

650. The Rapporteur regrets, however, that no information is provided regarding the specific allegations concerning Mr. Abu-Jamal's lack of access to appropriate medical treatment and hence finds that the Government, in its reply, does not sufficiently address the concerns, legal obligations, and questions raised in the initial communication, which prompts him to infer that the Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

651. The Rapporteur would like to draw the Government's attention to rules 24(2) and 27(1), respectively, of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Mandela Rules), which provide that "[h]ealth-care services should be organized in close relationship to the general public health administration and in a way that ensures continuity of treatment and care, and that "[a]ll prisons shall ensure prompt access to medical attention in urgent cases. Prisoners who require specialized treatment or surgery shall be transferred to specialized institutions or to civil hospitals. Where a prison service has its own hospital facilities, they shall be adequately staffed and equipped to provide prisoners referred to them with appropriate treatment and care." Furthermore, rule 31 provides that "[t]he physician or, where applicable, other qualified health-care professionals shall have daily access to all sick prisoners, all prisoners who complain of physical or mental health issues or injury and any prisoner to whom their attention is specially directed." (UN General Assembly, Note by the Secretariat, 29 September 2015, A/C.3/70/L.3).

652. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of the United States of America by failsing to protect the physical and psychological integrity of Mr. Abu-Jamal, and provide him with adequate medical treatment, and thushas violatesd the right of Mr. Abu-Jamal to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 2 and 16 of the Convention against Torture. He invites the Government to keep him informed on developments of Mr. Abu-Jamal's treatment.

(i) JOL 03/06/15 CASE No. USA 12/2015 State Reply: 03/08/2015 **Allegations concerning torture and complicity in arbitrary arrest, beatings, torture, incommunicado detention, and the extraordinary rendition of Mr. Abou Elkassim Britel.**

653. The Special Rapport thanks the Government of United States for its reply, dated 3 August, 2015, to the present communication.

654. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication. In particular, the reply fails to indicate whether any investigation has taken place with regards to the allegations of torture and complicity in the arbitrary arrest, beatings, torture, incommunicado detention, and extraordinary rendition of Mr. Elkassim Britel, which prompts him to infer that the

Government fails to fully and expeditiously cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

655. In the absence of convincing information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, reiterated above, and thus, that the Government of the United States, by participating in the interrogation, arbitrary arrest, incommunicado detention and extraordinary rendition of Mr. Elkassim Britel as well as by providing assistance to those perpetrating acts of torture and cruel, inhuman and degrading treatment, has violated his right to be free from torture or cruel, inhuman or degrading treatment, as codified, *inter alia* in the articles 1, 2, 7, 12, 13, 14 and 16 of the CAT.

656. The Special Rapporteur reiterates that "individual responsibility for complicity in torture arises also in situations in which State agents do not themselves directly inflict torture or other ill-treatment but direct or allow others to do so, or acquiesce in it" (A/707/303, para. 23)

657. The Special Rapporteur urges the Government of the United States to conduct a fair and impartial investigation into the incidents, to prosecute and punish those responsible and to provide Mr. Elkassim Britel with adequate redress.

(j) JAL 26/06/2015 Case No. USA 13/2015 State Reply: 04/11/2015 **Allegations concerning the situation of Mr. X, a 21-year-old naturalized American citizen, who was sentenced to death on 15 May 2015 by a federal American jury for use of a "weapon of mass destruction", bombing of a public place and malicious destruction of property in relation to the Boston marathon bombings in April 2013.**

658. The Special Rapporteur thanks the Government of the United States for its reply, dated 4 November 2015, to the present communication.

659. The Rapporteur takes note of the Government's indication that due to the ongoing status of the litigation concerning Mr. X, it cannot provide substantive comment on this case. The Rapporteur finds that the Government, in its reply, does not sufficiently address the concerns raised in the initial communication, that the imposition of a death sentence rather than a life imprisonment sentence in view of the length of the judicial appeals process anticipated in this case, may prolong and heighten the suffering of the victims and their families, as well as of the detainee; and that the decision of a federal jury to impose the death penalty to the detainee for a crime committed in Massachusetts, which abolished the death penalty decades ago, may open a new chapter in the use of capital punishment in the State of Massachusetts and run counter to the efforts to abolish this practice in the United States.

660. As observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty if imposed or executed under circumstances that violate such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

661. As further observed in the Special Rapporteur's interim report to the General Assembly mentioned above, conditions on death row are often worse than those of the rest of the prison population and often include lengthy and anxiety-ridden wait for uncertain

outcomes, isolation, drastically reduced human contact and even sometimes worse physical detention conditions which can produce several mental trauma and physical deterioration in prisoners ("death row phenomenon") (para. 42).

662. The Special Rapporteur also calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering, and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

663. The Rapporteur deplores the death sentence and potential execution of Mr. X and finds Mr. X's prolonged or indefinite placement on death row could violate his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the Convention Against Torture, that the United States ratified on the 21 October 1994, and article 7 of the International Covenant on Civil and Political Rights, that the United States ratified on 8 June 1992, and customary international law.

664. The rapporteur strongly urges the Government of the United States to refrain from carrying out death sentences and abolish the practice of executions.

(k) JUA 10/07/2015 Case No. USA 15/2015 State Reply: 11/09/2015**Allegations concerning the deportation of Haitians, and in particular persons suffering from serious mental and physical illnesses and requiring appropriated specialized psychological and medical attention, to post-earthquake Haiti.**

665. The Special Rapporteur thanks the Government of United States of America for its replies, dated 11 September 2015, to the present communication.

666. The Rapporteur takes note of the information provided by the Government concerning proceedings and treatment of deportees under U.S. law and policies. However, the Rapporteur finds that the Government, in its reply, does not sufficiently address some of the concerns, legal obligations, and questions raised in the initial communication. In particular, the reply fails to adequately address the risk that certain categories of deportees, particularly women, persons with nonconforming gender identities, and persons suffering from chronic mental or physical illnesses, are vulnerable to physical abuse and/or imprisonment or institutionalization in unsafe conditions upon return to Haiti; and that persons with serious health conditions are unable to access adequate medical treatment and facilities, specialized care, medications, nutrition, and stable and safe living conditions.

667. The Special Rapporteur further notes that the Government provided no information in its response to the present communication to ensure that the deportees were asked specific questions during their immigration proceedings to determine whether they risked torture or cruel and unusual treatment. Moreover, the Government does not specify that deportees are advised of their right to seek CAT relief, or that access to legal representation is provided.

668. The Special Rapporteur reminds the Government that the Committee against Torture has found that State decisions to expel individuals to places where they face a real risk of ill-treatment breaches the Convention (*P. E. v. France*). The Special Rapporteur in his interim report to the General Assembly found that "non-refoulement under the Convention against Torture must be assessed independently of refugee or asylee status determinations, so as to ensure that the fundamental right to be free from torture or other ill-treatment is respected even in cases where non-refoulement under refugee law may be circumscribed" (A/70/303, para 41).

669. The Special Rapporteur concludes that the State's immigration review procedures place it at risk of violating its non-refoulement obligation under Article 3 of the Convention Against Torture (CAT), and strongly urges the Government to refrain from carrying out further deportations in the absence of independent determinations under the CAT.

(l) JUA 13/07/2015 Case No. USA 17/2015 State reply: 20/07/2015 **Allegation concerning the case of Mr. David Zink, sentenced to death for murder and executed on July 14, 2015, despite mental health experts attesting that he suffered from psychosocial disabilities.**

670. The Special Rapporteur thanks the Government of United States of America for its reply, dated 20 July 2015, to the present communication, wherein he was informed that Mr. David Zink was executed on 14 July 2015.

671. As observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty when imposed or executed under circumstances that violate such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74).

672. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79).

673. The Special Rapporteur further reiterates to the Government of the United States that imposing and executing the death penalty on a person with psychosocial disabilities, as is the case with Mr. Zink, is per se a violation of an existing norm of customary international law (para. 64). It is also a violation of US constitutional law, as decided by the US Supreme Court in its *Atkins* decision.

674. The Rapporteur strongly condemns the execution of Mr. Zink and concludes that the Government of the United States, in executing Mr. Zink, a person suffering from a psychosocial disability, violated his rights to life and to be free from torture or cruel, inhuman or degrading treatment or punishment, as provided by articles 2 and 16 of the Convention against Torture (CAT) and article 7 of the International Covenant on Civil and Political Rights (ICCPR).

675. The Rapporteur calls upon the Government of the United States to take appropriate measures in order to abolish the practice of execution in the future, in particular in relation to persons suffering from disabilities, pregnant women, breastfeeding mothers, and juveniles.

Uzbekistan

JUA 27/04/2015 Case No. UZB 1/2015 State reply: 26/06/2015 **Allegation concerning a new criminal case brought against human rights defender, Mr. Azamjon Formonov, approximately two weeks before completing his sentence.**

676. The Special Rapporteur thanks the Government of Uzbekistan for its reply, dated 26 June 2015, to the present communication.

677. The Rapporteur takes note of the information provided by the Government of the allegation concerning Mr. Formonov's transfer to a pre-trial isolation facility, new charges filed against him for alleged "violations of prison rules" prior to his release (as he neared completion of his sentence) and inadequate medical and dental care. The Rapporteur acknowledges the information provided by the Government of the State's inadmissibility of the use of torture in all its forms. He takes note of the Government's assertion that Mr.

Formonov's health is satisfactory and that the laws of Uzbekistan prohibit solitary confinement. However, the Special Rapporteur regrets not having received any information about the present status of Mr. Formonov's continued detention or about the conditions of his detention, in particular regarding his alleged isolation in a pre-trial detention facility.

678. The Rapporteur would like to draw the Government's attention to his interim report to the General Assembly of 5 August 2011 (A/66/268), in which the Rapporteur defined solitary confinement, in accordance with the Istanbul Statement on the Use and Effects of Solitary Confinement, as the physical and social isolation of individuals who are confined in their cells for 22 to 24 hours a day. He observed that while solitary confinement for short periods of time may be justified under certain circumstances, with adequate and effective safeguards in place, the use of prolonged or indefinite solitary confinement may never constitute a legitimate instrument of the State and it runs afoul of the absolute prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

679. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above and is therefore of the view that the Government of Uzbekistan, by failing to protect the physical and psychological integrity of Mr. Formonov, or to provide him with adequate medical treatment has violated his right to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 2 and 16 of the Convention against Torture (CAT).

680. It has come to the attention of the Special Rapporteur that, as of the drafting of this report, Mr. Formonov has been sentenced to five additional years in prison for alleged systematic violation of prison rules under Article 221 of the Criminal Code. The Rapporteur strongly urges the Government of Uzbekistan to protect the right of Mr. Formonov to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

Venezuela (Bolivarian Republic of)

(a) JUA 22/12/2014 Case No. VEN 8/2014 State Reply: None to date **Alegaciones relativas a la detención arbitraria, violación de debido proceso y grave deterioro del estado de salud del Sr. Vicencio Scarano debido a las condiciones de detención, en particular el grado de aislamiento y el trato al que estaría siendo sometido.**

681. El Relator Especial lamenta que el Gobierno de Venezuela no haya respondido a la comunicación conjunta con otros procedimientos especiales, de fecha 22 de diciembre de 2014. En particular la comunicación hacía referencia al grave deterioro del estado de salud del Sr. Vicencio Scarano, el cual podría estar relacionado con las condiciones de detención y el trato sufrido y en particular el grado de su aislamiento. En consecuencia, existe una falta de cooperación con el mandato según los términos de lo ordenado por el Consejo de Derechos Humanos en su resolución 25/13.

682. En el Informe Provisional trasmitido a la Asamblea General en fecha 5 de Agosto de 2011 (A/66/268) el Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes definió el régimen de aislamiento, de conformidad con la Declaración de Estambul sobre el empleo y los efectos de la reclusión en régimen de aislamiento, como el aislamiento físico de una persona en su celda, de 22 a 24 horas al día. El Relator observó que mientras el uso del régimen de aislamiento por cortos periodos de tiempo podría ser justificado en ciertas circunstancias, con las garantías adecuadas y efectivas, el uso prolongado o indefinido del régimen de aislamiento nunca puede constituir un instrumento legítimo del Estado. Este régimen causa dolor o sufrimiento mental y físico en los términos de la definición de la tortura o del trato o pena cruel, inhumano o

degradante, aspecto que ha sido reiterado en el párrafo 28 de la Resolución 68/156 de la Asamblea General, y entra en colisión con la prohibición absoluta de la tortura y los otros malos tratos. Además, como consecuencia de la falta de comunicación del detenido, así como la falta de testigos dentro de la prisión, el uso del régimen de aislamiento puede dar lugar a otros actos de tortura o malos tratos. El Relator igualmente quisiera recordarle al Estado el párrafo 6 de la Observación General Nº 20 del Comité de Derechos Humanos, que establece que el confinamiento solitario prolongado de la persona detenida o presa puede equivaler a actos prohibidos por el artículo 7 del Pacto Internacional de Derechos Civiles y Políticos (PIDCP) y el artículo 7 de los Principios Básicos para el Tratamiento de los Reclusos, que establece que se tratará de abolir o restringir el uso del régimen de aislamiento en celda de castigo como sanción disciplinaria y se alentará su abolición o restricción.

683. Ante la ausencia de información que contradiga lo argumentado, el Relator Especial concluye que hay fundamentos suficientes en los argumentos presentados, disponibles en el enlace señalado anteriormente, para señalar que el Gobierno de Venezuela ha faltado a sus obligaciones de proteger la integridad física y psicológica del Sr. Scarano, al someterlo al régimen de aislamiento prolongado o indefinido, violando de ese mode su derecho a no ser sometido a tortura o tratos crueles inhumanos o degradantes, previsto en los artículo 1 y 16 de la Convención contra la tortura (CAT).

684. El Relator Especial ha tenido conocimiento en la elaboración de este informe de la decisión publicada por el Tribunal Supremo de Justicia de fecha 16 de enero de 2015 donde el Juzgado de Ejecución le otorgó arresto domiciliario al Sr. Scarano atendiendo a su estado de salud y acoge con beneplácito estas noticias.

(b) JUA 05/01/2015 Case No. VEN 9/2014 State Reply: 05/03/2015 **Alegaciones relativas a la detención arbitraria; grave deterioro del estado de salud y denegación de tratamiento médico al Sr. Marcelo Crovato, quién fue arrestado cuando brindaba asistencia legal a un grupo de manifestantes por encargo de la organización de derechos humanos Foro Penal Venezolano.**

685. El Relator Especial agradece al Gobierno de Venezuela por su respuesta a la comunicación conjunta con otros procedimientos especiales, de fecha 5 de marzo de 2015. En particular, la comunicación hacía referencia al grave deterioro del estado de salud mental y física del Sr. Marcelo Crovato durante su detención, además de las alegaciones de que no estaría recibiendo el tratamiento médico adecuado.

686. Así también el Relator Especial de las Naciones Unidas aprecia el esfuerzo del Gobierno por la información presentada al respecto de la decisión del Ministerio Público del Estado Venezolano de solicitar la revisión de la medida privativa de libertad por una medida menos gravosa, también de solicitar su traslado a un centro de salud y la realización de los exámenes médicos necesarios para vigilar el estado de salud mental del Sr. Crovato.

687. El Relator Especial ha tenido conocimiento en la elaboración de este informe que al Sr. Crovato se le ha otorgado una medida de arresto domiciliario en atención a su grave estado de salud. El Relator Especial acoge con beneplácito estas noticias e igualmente quisiera recordarle al Estado las Reglas Mínimas de las Naciones Unidas para el Tratamiento de los Reclusos, el Conjunto de Principios para la Protección de Todas las Personas Sometidas a Cualquier Forma de Detención o Prisión y los Principios básicos para el Tratamiento de los Reclusos.

(c) JUA 23/02/2015 Case No. VEN 3/2015 State Reply: 31/03/2015 **Alegaciones relatives a las condiciones de detención del Sr. Leopoldo López, las cuales incluyen el aislamiento solitario, prohibición de visitas de sus familiares y la detención arbitraria de Sr. Antonio Ledezma y los golpes a los cuales fue sometido al momento de su detención.**

688. El Relator Especial agradece al Gobierno de Venezuela por su respuesta a la comunicación conjunta con otros procedimientos especiales, de fecha 31 de marzo de 2015. En particular la comunicación hacía referencia a las alegaciones de las graves condiciones de detención del Sr. Leopoldo López, quien después de ser golpeado fue puesto en una celda de castigo de dos metros por dos, sin ventilación en aislamiento solitario donde no se le permitirían visitas de sus familiares, de sus abogados ni de representantes de la Defensoría del Pueblo. Además de los alegatos de detención arbitraria del Sr. Antonio Ledezma por cerca de 80 agentes encapuchados del Servicio Bolivariano de Inteligencia Nacional (SEBIN) además de los golpes de los cuales fue objeto durante su detención.

689. El Relator Especial aprecia el esfuerzo del Gobierno en responder detalladamente a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial. Agradece los informes periciales realizados para constatar el estado de salud del Sr. Leopoldo López; sin embargo, los mismos fueron realizados en el año 2014, es decir que son previos al envío de la presente comunicación conjunta. En consecuencia, la respuesta del Estado no informa al respecto de los exámenes médicos que se hayan llevado a cabo a raíz de los hechos más recientes en que se basa esta comunicación. El único acta posterior a los hechos denunciados es consecuencia de la visita de un fiscal. En tales condiciones, que el recluso no haya formulado quejas por su tratamiento no significa necesariamente que los hechos denunciados sean falsos. En particular, preocupa al Relator Especial que la extensa respuesta del Gobierno no desmienta ni confirme el régimen diario de aislamiento al que está sometido el Sr. López según la denuncia recibida. El párrafo 55 de la respuesta elaborada por el Ministerio de Relaciones Exteriores afirma que el detenido "...está separado del resto de la comunidad penitenciaria..." en el penal militar de Ramo Verde. Lamentablemente, aunque se afirma que López tiene acceso a áreas comunes (además de la visita familiar y de abogados) nada se dice sobre cuántas horas por día el detenido debe pasar en una celda de 2.5x2.5 metros, ni de cuánta duración en días, semanas o meses es su aislamiento.

690. El Relator Especial quisiera recordar su Informe Provisional trasmitido a la Asamblea General en fecha 5 de Agosto de 2011 (A/66/268) en que definió el régimen de aislamiento, de conformidad con la Declaración de Estambul sobre el empleo y los efectos de la reclusión en régimen de aislamiento, como el aislamiento físico de una persona en su celda, de 22 a 24 horas al día. El Relator observó que mientras el uso del régimen de aislamiento por cortos periodos de tiempo podría ser justificado en ciertas circunstancias, con las garantías adecuadas y efectivas, el uso prolongado o indefinido del régimen de aislamiento nunca puede constituir un instrumento legítimo del Estado. Cuando es prolongado o indefinido, este régimen causa dolor o sufrimiento mental y físico, un aspecto que ha sido reiterado en el párrafo 28 de la Resolución 68/156 de la Asamblea General, y entra así en colisión con la prohibición absoluta de la tortura y los otros tratos o penas crueles, inhumanos o degradantes. Además, como consecuencia de la falta de comunicación del detenido, así como la falta de testigos dentro de la prisión, el uso del régimen de aislamiento puede dar lugar a otros actos de tortura o malos tratos. El Relator igualmente quisiera recordarle al Estado el párrafo 6 de la Observación General Nº 20 del Comité de Derechos Humanos, que establece que el confinamiento solitario prolongado de la persona detenida o presa puede equivaler a actos prohibidos por el artículo 7 del Pacto Internacional de Derechos Civiles y Políticos (PIDCP) y el artículo 7 de los Principios Básicos para el Tratamiento de los Reclusos, que establece que se tratará de abolir o restringir el uso del aislamiento en celda de castigo como sanción disciplinaria y se alentará su abolición o restricción.

691. El Relator Especial ha tenido conocimiento durante la elaboración de este informe de la decisión de otorgarle arresto domiciliario al Sr. Antonio Ledezma luego de haber sido sometido a cirugía debido a su estado de salud. El Relator Especial de las Naciones Unidas acoge con beneplácito estas noticias; sin embargo, quisiera recordar al Estado la

prohibición absoluta e inderogable de la tortura y de los malos tratos tal y como se encuentra recogida en el artículo 1 de la Convención contra la Tortura y Otros Tratos o Penas Crueles, Inhumanos o Degradantes (CAT). Con relación al detenido López, y por las razones expuestas más arriba, el Relator Especial considera que Venezuela viola su derecho a la integridad física y mental al mantenerlo en estado de aislamiento indefinido o prolongado en términos de la definición contenida en la Declaración de Estambul sobre confinamiento solitario.

(d) JUA 28/05/2015 Case No. VEN 6/2015 State Reply: None to date **Alegaciones relativas a las condiciones de aislamiento solitario prolongado impuestas al Sr. Leopoldo López Mendoza, los cacheos con violencia sufridos por los Sres. Enzo Scarano, Daniel Omar Ceballos Morales y Salvatore Luchesse, detenidos en las instalaciones militares de Ramo Verde y nuevos alegatos al respecto de la detención arbitraria del Sr. Daniel Omar Ceballos Morales.**

692. El Relator Especial lamenta que el Gobierno de Venezuela no haya respondido a la comunicación de fecha 25 de mayo de 2015. En particular esta comunicación hacía referencia a una comunicación conjunta previa con otros procedimientos especiales, de fecha 7 de agosto de 2014 en la cual se mencionaba la preocupación por las condiciones de aislamiento solitario prolongado impuestas al Sr. Leopoldo López Mendoza y sobre repetidos actos de agresión durante cacheos sufridos por los Sres. Enzo Scarano, Daniel Omar Ceballos Morales y Salvatore Luchesse, detenidos en las instalaciones militares de Ramo Verde. Además en esta comunicación nos referimos a la información adicional recibida sobre el traslado del Sr. Daniel Omar Ceballos Morales, ex-Alcalde de San Cristóbal a un recinto penitenciario en San Juan de los Morros.

693. En el Informe Provisional trasmitido a la Asamblea General en fecha 5 de Agosto de 2011 (A/66/268) el Relator Especial sobre la tortura y otros tratos o penas crueles, inhumanos o degradantes definió el régimen de aislamiento, de conformidad con la Declaración de Estambul sobre el empleo y los efectos de la reclusión en régimen de aislamiento, como el aislamiento físico de una persona en su celda, de 22 a 24 horas al día. El Relator observó que mientras el uso del régimen de aislamiento por cortos periodos de tiempo puede justificarse en ciertas circunstancias, con garantías adecuadas y efectivas, el uso prolongado o indefinido del régimen de aislamiento nunca puede constituir un instrumento legítimo del Estado. Este régimen causa dolor o sufrimiento mental y físico, un aspecto que ha sido reiterado en el párrafo 28 de la Resolución 68/156 de la Asamblea General, y entra en colisión con la prohibición absoluta de la tortura y los otros tratos o penas crueles, inhumanos o degradantes. Además como consecuencia de la falta de comunicación del detenido, así como la falta de testigos dentro de la prisión, el uso del régimen de aislamiento puede dar lugar a otros actos de tortura o malos tratos. El Relator igualmente quisiera recordarle al Estado el párrafo 6 de la Observación General Nº 20 del Comité de Derechos Humanos, que establece que el confinamiento solitario prolongado de la persona detenida o presa puede equivaler a actos prohibidos por el artículo 7 del Pacto Internacional de Derechos Civiles y Políticos (PIDCP) y el artículo 7 de los Principios Básicos para el Tratamiento de los Reclusos, que establece que se tratará de abolir o restringir el uso del régimen de aislamiento en celda de castigo como sanción disciplinaria y se alentará su abolición o restricción.

694. El Relator Especial ha tenido conocimiento en la elaboración de este informe que al Sr. Daniel Ceballos se le ha otorgado en fecha 11 de Agosto por parte del Tribunal 15º de Juicio del Área Metropolitana de Caracas una medida cautelar de arresto domiciliario en atención a su grave estado de salud. El Relator Especial acoge con beneplácito estas noticias.

695. Ante la ausencia de información que contradiga lo argumentado, el Relator Especial concluye que hay fundamentos suficientes en los argumentos presentados, disponibles en el

enlace señalado anteriormente, para señalar que el Gobierno de Venezuela faltó a sus obligaciones de proteger la integridad física y psicológica de los Sres. Enzo Scarano, Daniel Omar Ceballos Morales y Salvatore Luchesse violando sus derechos a no ser sometidos a tortura o tratos crueles inhumanos o degradantes, previsto en los artículos 1 y 16 de la Convención contra la Tortura y otros tratos o penas crueles, inhumanos o degradantes, y en especial respecto del Sr. Leopoldo Lopez, al someterlo al régimen de aislamiento por tiempo prolongado.

696. El Relator Especial exhorta al Gobierno de Venezuela a dar a conocer los avances al respecto de estos casos, y reitera su llamamiento al Gobierno a comenzar con la investigación, procesamiento, eventual condena de personas culpables y la reparación de las víctimas.

(e) AL 25/09/2015 Case No. VEN 11/2015 State Replies: 16/11/2015 and 23/12/2015 **Denuncias sobre falta de control penitenciario y de límites para el número de detenidos a alojar en cada unidad del Internado Judicial de Carabobo, mejor conocido como "Cárcel de Tocuyito," donde se generó un incendio que mató a 19 personas.**

697. El Relator Especial agradece al Gobierno de Venezuela por su respuesta fechada 16 de noviembre de 2015 a la comunicación que versaba sobre la presunta falta de control penitenciario y de límites para el número de detenidos a alojar en cada unidad. El Relator Especial aprecia el esfuerzo del Gobierno en responder detalladamente a las inquietudes, obligaciones y preguntas presentadas en la comunicación inicial.

698. Sin embargo, el Relator Especial exhorta al Gobierno de Venezuela a garantizar la investigación, procesamiento y eventual condena de los responsables de los hechos que culminaron en el incendio que costó la vida a 19 personas. El Estado se encuentra obligado a realizar un juicio justo e imparcial para investigar los acontecimientos y enjuiciar y sancionar a los responsables, de conformidad con los artículos 7 y 12 de la Convención contra la Tortura (Convención).

699. El Relator Especial desea hacer referencia a la prohibición absoluta e inderogable de la tortura y de los malos tratos, tal y como se encuentra recogida en los artículos 2 y 16 de la Convención, que Venezuela ratificó el 29 de julio de 1991. El Relator Especial desea hacer referencia al artículo 6 del Pacto Internacional de Derechos Civiles y Políticos, ratificado por Venezuela el 10 de mayo de 1978, que prevé que todo individuo tiene derecho a la vida y la seguridad personal, y que ninguna persona podrá ser privada arbitrariamente de su vida. Cuando el Estado detiene a un individuo se encuentra obligado a mantener un elevado nivel de diligencia para proteger los derechos de esa persona. En consecuencia, cuando un individuo muere como consecuencia de lesiones mientras se encontraba recluido, existe una presunción de responsabilidad del Estado.

700. Sin embargo, el Relator Especial concluye que el Gobierno de Venezuela, al no tomar medidas para prevenir la violación de la integridad física y la vida de las víctimas, así como los actos de tortura y los tratos crueles inhumanos y degradantes ejercidos contra manifestantes y detenidos, ha violado sus derechos a no ser torturados o sometidos a tratos crueles, inhumanos o degradantes como afirma el derecho internacional consuetudinario codificado en los artículos 1 y 16 de la Convención.

Vietnam

(a) JUA 30/10/2015 Case No. VNM 1/2015 State Reply: None to date **Allegations concerning the risk of imminent execution of Mr. Le Van Manh, sentenced by a Vietnamese court; the torture and death as a result of torture of X; as well as death threats against Mrs. Do Thi Mai, the mother of X.**

701. The Special Rapporteur regrets that the Government of Vietnam has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular the letter expressed grave concerns regarding the imminent execution of Mr. Le Van Manh; the torture and death as a result of torture of the juvenile X, who was detained in an adult prison and then transfer to a Hospital where he died because of serious internal injuries; and the death threats against Mrs. Do Thi Mai, the mother of the juvenile as a consequence of presenting a complaint to the United Nations human rights mechanisms.

702. Regarding the imminent execution of Mr. Le Van Manh, as observed by the Special Rapporteur in his 2012-report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). Even if this customary norm is still under way, the Special Rapporteur considers that most conditions under which capital punishment is actually applied renders the punishment tantamount to torture and that under many other, less severe conditions, it still amounts to cruel, inhuman or degrading treatment (para. 75).

703. The Special Rapporteur calls upon all States to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment; (para. 79 A/67/279). He reminds the government of Vietnam that international law prescribes the absolute and non-derogable prohibition of torture and other ill-treatment as codified in articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), as well as the prohibition of using evidence obtained under torture or ill-treatment, in accordance with article 15 of the CAT. With regard to sentences imposing the death penalty, the report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (A/67/279) calls upon retentionist States to rigorously observe the restrictions and conditions imposed by articles 1 and 16 of the CAT.

704. With regards of the death of the juvenile X, the Special Rapporteur would like to remind the State of Vietnam the heightened level of diligence to ensure the protection of an individual's rights when detained by the State. Also, the obligation of the State to conduct a fair and impartial investigation into the incidents and to prosecute and punish those responsible for the death of the juvenile.

705. In the case of Mrs. Do Thi Mai, the mother of the juvenile, the Special Rapporteur would like to remind the State of its obligation according to Article 13 of the CAT which establishes that "Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, (…) Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given."

706. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus that the Government of Vietnam, by seeking to execute the death penalty for offenses that do not reach the threshold of "the most serious crimes" to Mr. Le Van Manh and by failing to prevent the death of X while in detention has violated their right to be free from torture or cruel, inhuman or degrading treatment; and has failed to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

(b) JUA 25/11/2015 Case No. VNM 2/2015 State Reply: None to date **Allegations concerning the serious bodily assault against Mr. Tran Thu Nam, a Vietnamese lawyer and human rights defender, and another lawyer and human rights defender who was accompanying him, as well as threats to the latter. The assault appears to be directly linked to the legal assistance they provided to Ms. Do Thi Mai. Ms. Do Thi Mai and her son, Mr. Do Dang Du, were the subject of communication case VNM 1/2015.**

707. The Special Rapporteur regrets that the Government of Viet Nam has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

708. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and that the Government of Viet Nam, by failing to protect the physical and psychological integrity Mr. Tran Thu Nam and his colleague, and by subjecting them to threats and intimidations against their life, has violated the rights of the above mentioned individuals to be free from torture or cruel, inhuman or degrading treatment, as provided by articles 1 and 16 of the CAT.

Yemen

JAL 24/03/2015 Case No. YEM 1/2015 State Reply: None to date **Allegations concerning an airstrike, involving the use of an armed drone, reportedly conducted, on 26 January 2015 in the Huraib Area, Mareb Governorate of Yemen, which caused three deaths, including that of a child aged 13 and also about two other airstrikes, apparently related, reportedly conducted in 2011 and 2013.**

709. The Special Rapporteur regrets that the Government of Yemen has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13. In particular the letter expressed concern about the three deaths, including that of a child aged 13 caused by an airstrike, involving the use of an armed drone, reportedly conducted, on 26 January 2015.

710. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and thus, that the Government of Yemen has failed to comply with its obligation, under international customary law, to investigate, prosecute and punish all acts of torture and other cruel, inhuman or degrading treatment or punishment, as codified, inter alia, in the Convention against Torture (CAT).

711. The Special Rapporteur reminds the State that it is its duty to conduct a fair and impartial investigation into the incidents and to prosecute and punish those responsible.

Zambia

JAL 09/04/2015 Case No. ZMB 1/2015 State Reply: None to date **Allegations concerning arbitrary arrest and prosecution of Messrs. A and B on the sole basis of their sexual orientation.**

712. The Special Rapporteur regrets that the Government of Zambia has not replied to the present communication, thereby failing to cooperate with the mandate issued by the Human Rights Council in its resolution 25/13.

713. The Special Rapporteur recalls that the practice of subjecting men accused of engaging in homosexual conduct to non-consensual anal examinations contravenes the prohibition on torture and ill-treatment under international law (see A/HRC/19/41 para 37).

714. In the absence of information to the contrary, the Rapporteur concludes that there is substance in the allegations presented in the initial communication, available via the link above, and is therefore of the view that the Government of Zambia, by submitting Messrs. A and B, to a medical forensic test without their consent, has violated their right to be free from torture and other forms of cruel, inhuman and degrading treatment, as provided by article 7 of the ICCPR, and articles 1 and 16 CAT, all of which are declaratory of a customary international law norm.

OTHERS

African Union

JAL 02/09/2015 Case No. OTH 5/2015 State Reply : None to date **Allégations d'actes de torture perpétrés par des soldats de la Mission internationale de soutien à la Centrafrique (MISCA), contre des éléments de la milice anti-balaka en décembre 2013 et en mars 2014.**

715. Le Rapporteur spécial regrette que l'Union Africaine n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec l'esprit du mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13.

716. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus. En échouant à investiguer la soumission à la torture de miliciens anti-balaka par des soldats originaires de la République congolaise en décembre 2013 à Bossangoa et à Boali en mars 2014, ainsi que la disparition de sept autres individus arrêtés pour leur appartenance présumée à la milice anti-balaka, l'Union Africaine a failli à se conformer à l'interdiction absolue de tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

UN DPKO

JAL 02/09/2015 Case No. OTH 6/2015 State Reply : None to date **Allégations d'actes de torture perpétrés par des soldats de la Mission internationale de soutien à la Centrafrique (MISCA), contre des éléments de la milice anti-balaka en décembre 2013 et en mars 2014.**

717. Le Rapporteur spécial regrette que le Département de Maintien de la Paix des Nations Unies n'ait pas répondu à la présente communication, échouant ainsi à coopérer avec l'esprit du mandat émis par le Conseil des droits de l'homme dans sa résolution 25/13.

718. En l'absence d'information prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant aux allégations présentées dans la communication initiale, réitérées ci-dessus. En échouant à investiguer la soumission à la torture de miliciens anti-balaka par des soldats originaires de la République congolaise en décembre 2013 à Bossangoa et à Boali en mars 2014, ainsi que la disparition de sept autres individus arrêtés pour leur appartenance présumée à la milice anti-balaka, le Département de Maintien de la Paix a failli à se conformer à l'interdiction absolue de tout acte de torture et autres peines ou traitements cruels, inhumains ou dégradants, comme codifié, entre autre, dans la

Convention contre la torture et autres peines ou traitements cruels, inhumains ou dégradants (CCT).

Somaliland

JUA 16/11/2015 Case No. OTH 9/2015, State Reply: None to date **Allegations concerning the alleged imminent execution of Mr. Abdullahi Ali, a man with a psychosocial disability.**

719. The Special Rapporteur regrets that Somaliland has not replied to the present communication, thereby failing to cooperate with the spirit of the mandate issued by the Human Rights Council in its resolution 25/13.

720. As observed by the Special Rapporteur in his 2012 report to the General Assembly (A/67/279), there is evidence of an evolving standard within international bodies and a robust State practice to frame the debate about the legality of the death penalty within the context of the fundamental concepts of human dignity and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment. This evolving standard, along with the resulting illegality of the death penalty under such prohibition, is developing into a norm of customary law, if it has not already done so (para. 74). The Special Rapporteur further recalls that the execution of persons who suffer from psychosocial disabilities is per se a violation of an existing norm of customary international law (para. 64).

721. The Special Rapporteur calls upon Somaliland to reconsider whether the use of the death penalty per se respects the inherent dignity of the human person, causes severe mental and physical pain or suffering, and constitutes a violation of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (para. 79 A/67/279).

722. The Rapporteur strongly urges Somaliland to protect the right of Mr. Abdullahi Ali to be free from torture or cruel, inhuman or degrading treatment, as a *jus cogens* and international customary law norm codified, inter alia, in Human Rights Council Resolution 25/13 and General Assembly Resolution 68/156.

Additional observations

Angola

JAL 05/12/2013 Case No. AGO 5/2013 State Reply: 08/01/2014 et 22/12/2015 **Allégations concernant les meurtres présumés de M. Silva Alves Kamulingue et M. Isaías Sebastião Cassule ainsi que le meurtre de M. Manuel "Ganga" de Carvalho.**

723. Le Rapporteur spécial remercie le gouvernement de l'Angola pour sa réponse additionnelle, datée du 21 décembre 2015, à la présente communication.

724. Le Rapporteur a pris connaissance de l'explication du gouvernement en réponse aux préoccupations, obligations légales et questions soulevées au sujet du meurtre présumé de M. Manuel de Carvalho Ganga dans la communication initiale. Il accueille avec intérêt l'information fournie par le gouvernement selon laquelle M. de Carvalho aurait été arrêté par la Garde Présidentielle suivant la violation du périmètre de sécurité autour le complexe présidentiel le 23 novembre 2013. Lors de son transport avec d'autres détenus dans un véhicule de la Garde Présidentielle, M. de Carvalho aurait essayé de s'évader ce qui a été suivi par l'utilisation d'une arme à feu par un garde qui a résulté dans la mort de M. de

Carvalho. Le Rapporteur a pris note de l'enquête qui aurait été ouvert contre l'élément de la Garde Présidentielle et que celui-ci aurait été acquitté suivant le procès.

725. Le Rapporteur rappelle que la mort d'un individu lors de sa detention par l'Etat, meme si temporaire, soulève une presomption de responsabilité de l'Etat. Pour lui, les explications fournis par le gouvernment des circonstances de la mort de M. de Carvalho ne s'avèrent pas suffisant selon le principe d'une obligation d'une enquête approfondie, rapide et impartiale sur tous les cas présumés d'exécutions extrajudiciaires, arbitraires et sommaires, y compris les cas où les plaintes déposées par des parents ou d'autres rapports fiables suggèrent un décès non naturel dans les circonstances ci-dessus. Tenant compte que l'affaire est en appel, le Rapporteur spécial invite le Gouvernement à lui fournir des éléments actualisés et detaillés le temps voulu.

726. En outre, le Rapporteur spécial regrette que le gouvernement de l'Angola n'ait pas répondu aux préoccupations, obligations légales et questions soulevées au sujet des allégations de l'utilisation excessive de force par les forces de l'ordre en supprimant des manifestations, y inclus l'utilisation des armes à feu. En l'absence d'information suffisante prouvant le contraire, le Rapporteur conclut qu'il y a de la substance quant à une partie des allégations présentées dans la communication initiale, réitérées au liens ci-dessus, et donc, que le gouvernement de l'Angola, en faisant usage de la force excessive, a violé le droit des individus participant aux manifestations de ne pas être soumis à la torture et autres peines ou traitements cruels, inhumains ou dégradants, comme prévu dans les articles 1 et 16 de la CCT.